

# NATIONAL MUNICIPAL REVIEW

VOL. XV, No. 8

AUGUST, 1926

TOTAL No. 122

## EDITORIAL COMMENT

Sacramento, California, has been the recipient of many generous gifts and in order to perpetrate this spirit of loyalty on the part of her citizens and to encourage prospective donors and to acquaint them with the needs of the city, she has recently passed an ordinance establishing an honor roll and memorial gift commission. It will be the duty of the commission to collect full and complete information regarding all public gifts and bequests which the city has received from its earliest history and to arrange for the appropriate memorialization of the names of the donors. The commission will also conduct educational campaigns to persuade others to emulate the spirit of those who have already honored their city and themselves by public gifts.

The Missouri supreme court has recently ordered the St. Louis board of estimate and apportionment and the board of aldermen to pay over to the men in the fire department a lump sum amounting to about \$315,000, representing back pay which the city authorities had refused to appropriate. More than a year ago the people of St. Louis adopted an initiated ordinance increasing the pay of firemen from \$155 to \$180 per month. The city council refused to pay the increased wages claiming that the or-

dinance was not lawfully adopted and was unreasonable and void. The supreme court decided against the city on each point and about 900 firemen, from the lowest grade to captain, will receive approximately \$350 each, as back pay accumulated during the fourteen months the matter was pending.

The Minneapolis city manager charter, noted in this department in the July REVIEW, was defeated at the election on June 21 by a two to one vote. Our readers will recall that the charter provided for the election of the council by proportional representation. A feature of the charter not so commendable was the proposed board of financial review which would have had the power, on petition of one hundred taxpayers, to veto or reduce appropriations, tax levies and bond issues authorized by the council.

The charter campaign attracted but little interest. While Minneapolis' government is reported to be far from efficient, no gross wastes or scandals have been uncovered recently and the average citizen seems content with things as they are. While he may grumble over his taxes he remains unwilling to exert the energy needed to institute a change for the better.

Professor Tooke in his judicial decisions department in this issue calls attention to two recent zoning cases which will be of interest and significance to all who are following the course of zoning through the courts.

In North Dakota the courts sustained a refusal to grant a permit to build a four family house in a two family district and in violation of the set-back and side yard provisions. The court called attention to the fact that the ordinance was based upon the standard enabling act already adopted in twenty states and found that the restrictions upon building imposed by the ordinance were a sound exercise of the police power.

The decision of the Georgia supreme court denying the right of the city of Atlanta to prohibit retail stores from residence districts is more closely in line with the attitude of the courts of Texas and New Jersey. The Georgia court finds that the state statute authorizing Atlanta to zone and the zoning ordinance enacted thereunder are invalid in so far as they seek to establish use districts from which stores are excluded.

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Baltimore is to be congratulated upon the adoption of a sound retirement system for the municipal employees. The system is described in this issue by George B. Buck, who acted as consulting actuary to the Baltimore Retirement Commission. It supplants several existing retirement plans of limited scope and covers all civil servants with the exception of policemen. Both the city and the employees contribute jointly to the support of the system.

Pension systems are expensive and unfortunately many existing plans were set up without due regard to the actual

cost of administration. Baltimore is one of the few cities which have profited by experience and in adopting her present system she has made careful estimates of the cost involved, not only in the immediate future but in the distant operation of the system. There is no reason to suppose that the condition of her pension fund will not be as sound thirty years hence as it is today. Few people will dispute the propriety and advantages of a sound retirement system for our public employees and it is time that those jurisdictions which have not maintained their funds in a sound condition based upon correct actuarial computations should at once proceed to renovate them.

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Is the Skyscraper  
Doomed?

The skyscraper, so generally considered as the hall-mark of a real city, is meeting serious opposition in the very metropolis in which it has attained its greatest development and fame. Henry H. Curran, counsel of the New York City Club, is the latest to draw an indictment against the tall building. The skyscraper, he declares, increases congestion beyond the ability of transit facilities to cope with it and is a menace to health and welfare. He proposes that no more structures higher than ten stories be permitted on Manhattan Island. Arcaded streets, staggering the rush-hour crowds, and present zoning set-back regulation for high buildings are all dismissed as "court-plaster palliatives." The only solution is to banish the skyscraper entirely.

In recent years the conviction has been growing that in large cities transit facilities can never keep pace with unregulated real estate development; that each new transit service merely increases the congestion which



it was expected to relieve.<sup>1</sup> New subways raise land values, high land values stimulate construction of tall buildings, and the consequent congestion is reflected in further increases in land values. The vicious circle is begun. It cannot be broken through except by a stroke at the real heart of the difficulty, the present unregulated and anti-social utilization of land. The zoning of today is probably but a suggestion of the scope which regulation of the future will assume.

"High buildings," says Thomas Adams, general director of the Regional Plan for New York and Its Environs "have not yet begun to cause the amount of congestion that will come inevitably if skyscrapers continue to be built; 1,700 skyscrapers out of 97,000 buildings (the present proportion in Manhattan) is not a large proportion. But what will happen to Manhattan when the number of skyscrapers is multiplied by ten or by twenty?"

"The amount of land you have for traffic and for handling the business that these buildings develop remains the same; right now, it seems, we have more than reached the saturation point in ability to handle this traffic. Continue to erect skyscrapers and fill them with more people, and it means more trucks, more automobiles, more movement, and the condition becomes a hazard to life and health."

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The Phantom  
Public

Mr. Lippman in his newest book<sup>2</sup> has made a direct assault upon the conventional democratic ideal

which cannot be laughed off. The ideal, roughly stated, is that it is possible for Mr. Average Citizen, by the expenditure of a reasonable amount of energy and guided by a good conscience, to exercise an informed and authoritative judgment upon all public matters, and that the collective opinions of such persons constitute a true public opinion which can be revealed by the ballot box. This, Mr. Lippman says, is not so; the sort of public opinion which "mystical democrats" presuppose simply does not exist. Government is to-day a mass of complicated technical tasks and the trouble with the conventional theory is that it assumes an increasing round of civic duties which the citizen has not "the time, the interest or the knowledge" to perform. The ideal is harmful because it is unattainable, because it is untrue.

Since public opinion cannot be a creating force directing society to deliberate ends, is there any useful function that it can perform? Mr. Lippman thinks that there is. Society is a network of conflicting interests. A system of rules, of rights and duties, exists to regulate the antagonistic purposes of men. But rules grow obsolete, become defective and must be mended. Although the public cannot have special knowledge of why a certain rule is defective and how it should be altered, it is deeply interested in the maintenance of a régime of rule. Although a bystander so far as a grasp of the complicated issues are concerned, it can recognize if and when a rule becomes unsound and can decide which actor in a controversy, which of the contending interests in society with respect to the questionable rule, is most worthy of support. While it cannot propose a new rule it can exchange the Ins for the Outs.

<sup>1</sup> See article by Daniel L. Turner in the June REVIEW as well as article by C. A. Dykstra in July REVIEW.

<sup>2</sup> "The Phantom Public," by Walter Lippman, Published by Harcourt, Brace Co., New York.

### To quote the author:

To support the Ins when things are going well; to support the Outs when they seem to be going badly, this . . . is the essence of popular government.

The outlook may seem pessimistic. If Mr. Lippman is right, many constitution makers and governmental reformers are living in a dream world. Clearly there is no hope in more get-out-the-vote campaigns, even if they should be successful in doubling the number of ballots. Do forty million ignorant voters possess any greater virtue than twenty million? The answer would seem to be no, and it is possible that the falling vote is a symptom of the false basis of the traditional democratic theory of government. In any case, thoughtful persons will not let the matter rest with shallow arraignments of the moral degeneracy of the modern citizen.

Members of the National Municipal League are becoming increasingly worried over the difficulty of interpreting today's complex and highly specialized municipal activities to the voter. Eight hours a day for six days a week will not suffice to give an intelligent person any exact comprehension of what our local and national governments are doing. Even elementary standards of judgment are wanting, although budget students have for several years been calling attention to our inability to translate budget figures into items of service rendered.

In his address before the Pittsburgh meeting of the League,<sup>1</sup> Mr. Lippman confessed that even a man paid to devote his time to it could not keep abreast of what the New York city

departments were doing. Political machines are therefore inevitable but they must be kept in line and can be persuaded to make reform their own. Two external agencies, however, are necessary; an independent newspaper and a well-financed independent fact finding agency. The bureaus of municipal research, which will this year celebrate the twentieth anniversary of the birth of the idea, are well fitted to meet the specifications for the fact finding agency. They are not yet "well-financed" but they are careful, impartial, scientific and independent.

We need more *independent* fact finders. No other sort of "fact finder" will serve. The tariff commission has received some attention lately and the charge has been made that the "finders" have been selected with a view to the "facts" they were to find. May heaven preserve us from fact-finders such as one prominent congressman wants on this commission.

"... We ought to have a commission," he says, "a fact-finding commission, that is in sympathy with the Administration. Now, when the Democrats are in power, whether they hold the idea of free trade or a tariff for revenue only, they ought to have a commission that is in sympathy with their policy. On the other hand, when the Republicans are in power, and have a policy, that has ever been the foundation stone upon which its success was held, for protection of American industries and American labor, it ought to have a commission that is in sympathy with that policy."

"Sympathetic" facts are not the sort to which Mr. Lippmann refers. Let us preserve a distinction between facts and propaganda.

<sup>1</sup>See NATIONAL MUNICIPAL REVIEW for January, 1926.



# RELATIONS BETWEEN THE GOVERNOR AND THE LEGISLATURE IN THE MODEL CONSTITUTION

BY HOWARD WHITE

*Ohio Wesleyan University*

*The Legislative Council, proposed in the Model Constitution of the National Municipal League, will not work as its designers intend.*

SEPARATION of powers is a principle generally accepted by American constitution makers. Consistent application of the principle is probably hardest in creating the law-making power. Assuming that law-making should be distinct from law-enforcing, the practical sense of constitution framers has nevertheless forced them to deal with the fact that often the advice and experience of those administering the law is essential to those who would make new law. Accordingly, the executive has been authorized to send messages to the legislature and checks have been put in his hands to protect his powers from legislative encroachments.

Friction between the two branches in the performance of their respective law-making functions has characterized the resulting arrangements. To establish more harmonious relations it has frequently been proposed to give seats in the legislature to the principal executive officers.<sup>1</sup>

It seems to the writer, however, that the existence of legislative and executive branches, each with constitutional powers beyond the control of the other,

<sup>1</sup> The writer has examined various alleged reasons why cabinet members were excluded from the first congress under the constitution in chapter IV of his monograph, *Executive Influence in Determining Military Policy in the United States*, Vol. XII, University of Illinois Studies in the Social Sciences, nos. 1 and 2.

makes impractical any plan for establishing closer co-operation between them by merely giving cabinet members the privileges of introducing bills and participating in debate. To expect popularly-elected law-makers to surrender their own initiative and follow a program of legislation prepared by a cabinet over which they have practically no control seems to disregard some elemental characteristics of human nature.

## PROPOSED LEGISLATIVE COUNCIL

Apparently realizing that to give legislative privileges to department heads appointed by the governor is not an adequate means of securing laws satisfactory to both branches, the committee on state government of the National Municipal League, in its draft of a model state constitution, not only proposes to give the governor and heads of departments, whom he appoints, seats in the unicameral legislature with the privilege of introducing bills and taking part in the discussion of measures, but also provides for a legislative council.

This council is to be composed of the governor and seven members elected from and by the legislature by a system of proportional representation. The council may be dissolved at any time by a majority vote of the legislature. A new council must then be elected. It is intended "that the council shall

be a continuous body, gathering material, preparing the legislative program, and drafting measures for introduction in the legislature at the next session. . . . In so far as a legislative program is concerned, the council should render a service to the legislature not unlike that now provided by the cabinet under the parliamentary form of government."

There are obvious similarities between the proposed council and the legislative duties of a parliamentary cabinet. But the differences are so fundamental that it does not seem reasonable to assume that results will be similar. The first difference to be noted is that the council is to contain not only the leaders of the majority in the legislature but of the minority as well, since it is to be elected by proportional representation. Hence, there would probably be two programs of legislation and two sets of bills. If the governor, who is also a member of the council, should be of the same party as the minority, its program should with his support be at least strong enough to block the enactment of the majority's projects, in which case both programs might, under the provisions of the model constitution, be referred to the omniscient electorate for the final decision. Clearly, such procedure is foreign to the parliamentary system. English voters choose men who are pledged to certain policies. They do not attempt to discriminate between drafts of proposed laws, or to determine whether proper methods for attaining desired ends have been provided therein.

A second difference between the proposed council and the parliamentary cabinet in its legislative capacity arises from the fact that the former is not a group which, individually, is in charge of the great administrative services of the government and which,

individually and collectively, is responsible to the legislature for their management. Since the greater part of legislation deals with these services, the council's inability to speak authoritatively concerning their needs would tend to put the proposals of the council on the same plane as those of other members of the legislature.

#### POSSIBILITIES OF DEADLOCK INCREASED

Whether or not the council's measures dealing with administration were given serious consideration by the legislature, they would in all probability not be the only projects of that nature submitted. As noted above, the heads of the administrative departments are to have seats in the legislature. They "may introduce bills therein, and take part in the discussion of measures, but shall have no vote," the Model Constitution provides. Thus, in addition to the probably distinct measures framed by the majority and by the minority of the council, there would be the cabinet's bills, including those pursuant to the recommendations of the governor's budget. Jealousy of the executive and fear of encroachments on its prerogatives would incline the legislature to act favorably on the bills recommended by the majority of the council, or at least to those sponsored by some of its own members. The governor, although a member of the council, would be much more likely to endorse the projects of his appointees whose policies he could control through the removal power. Consequently, the possibilities of a deadlock between the legislature and the executive in the exercise of their law-making duties appear to be increased rather than decreased by the machinery which the Model Constitution provides.

Those who framed the Model Constitution obviously approved the par-



liamentary system, at least those features of it which tend to assure the formulation and enactment of laws with a minimum of friction and a maximum of co-operation between the legislature and the executive. They wanted to engraft on the American legislatures those parliamentary features which, in their judgment, would center responsibility for preparing a definite program and for carrying that program into execution. Not content with the customary proposal to seat the cabinet in the legislature, they also approached the parliamentary system from the opposite direction by providing for a legislative committee with some resemblance to a cabinet. But they did not discard the principle of separation of powers. They apparently believed that the idea of an independent executive is so deeply entrenched in American thought that a complete adoption of the parliamentary system by American states would be too visionary to receive serious consideration by those upon whom from time to time will fall the duty of revising state constitutions.

If the foregoing analysis is correct, however, attempts to establish a compromise between the two systems are doomed to fail. If tried, they are more likely to stir up jealousies between the two branches of government and to produce confusion and deadlocks rather than to secure greater co-operation in framing and enacting legislation. Features essential to the one system should not be expected to work successfully in the other.

An executive whose tenure is controlled by the legislature, or one which holds for a definite term by a popular mandate: which shall it be? The answer depends largely upon your conception of the purposes of government. Stability or change? Is the main business of government to protect

what is, or to discover and promote new interests? Should popular demands be filtered through a system of checks and balances, or should government be immediately responsive to the will of a majority? One is impelled toward the latter alternative, which in each instance is presumably more characteristic of parliamentary government, by a realization that probably no country with a parliamentary system can show a greater mass of legislation than that produced by the American governments which, with their checks and balances, were intended to operate with a minimum of restraint on the individual.

#### EXTEND THE MANAGER IDEA

A final consideration which tends to make unified responsibility for legislation more practicable in American government is the fact that it can be accomplished without transplanting foreign institutions. All that is needed is to apply the city manager type of government to larger fields. The experience of more than three hundred cities is not uniformly favorable to the new venture. Sometimes the legislative body has failed to choose properly qualified men. This is not surprising for the field is new and trained managers are scarce. Sometimes, rather than trust legislative leadership to develop in the council, the manager has assumed the burden of leadership in policy-forming, with the result that he has been forced to retire when the policies for which he labored were rejected by the council.

Predictions as to its ultimate place in American government are obviously mere guesses. But this much seems true: the rise and spread of the city manager system has shown that the American people are not irrevocably committed to the idea of an independent executive, checked by and checking

the legislative body. While clinging to the idea of a single chief executive, characteristic of American practice outside county government, the voters in these cities have shown little reluctance in changing from a popularly-

elected to a council-appointed executive. Is it beyond the realm of possibility that the electorates of the states, first for themselves and finally for the national government, may some time vote for a similar change?

## CONTEMPORARY TOWN MEETING GOVERNMENT IN MASSACHUSETTS

BY JOHN F. SLY

*University of California, Southern Branch*

*Eighty-five per cent of the municipalities of Massachusetts still adhere to colonial forms of local government.*      ::      ::      ::      ::

SINCE Alexis de Tocqueville made New England town government famous almost a century ago, it has received increasing attention from students of American institutional history. But much of the research, although of the highest value, has been of an antiquarian character, and few scholars have viewed the subject in the light of a contemporary problem. It is of interest, therefore, to emphasize that in its traditional stronghold of Massachusetts the town meeting is still the dominant method of local government; that while many of the larger communities have abandoned it as a relic of what its great exponent Charles Francis Adams called "a simple and possibly a better past," it is relinquished with the greatest reluctance; and that the process of its retention is serving as a basis for political experiments that are in some respects unique.

Within the commonwealth of Massachusetts there are three hundred and fifty-five municipalities. Almost eighty-five per cent of these conduct their local affairs in a form and spirit similar to the methods of the colonial

and provincial periods. Boston, after a generation of debate, adopted a representative government in 1822. But the succeeding seventy-five years found but thirty-three cities within the state, and the first quarter of the new century has added but six others. It is significant that each of the latter group when incorporated contained more than 16,000 inhabitants, and that one, Revere, exceeded 25,000. Even within those communities having a potential town meeting membership of from three to over seven thousand voters, more than half still cling to the traditional form. And the last decade has seen a dozen towns attempt new experiments in an effort to avoid conventional representative charters.

### THE LIMITED TOWN MEETING

Since 1915, eight of the largest communities within the state have turned to a limited town meeting. The essential features of this plan consist in dividing the town into a number of precincts from each of which an equal number of delegates (usually between thirty and forty), designated as "town



meeting members" are chosen by popular vote. Collectively, and in conjunction with certain officials as *ex officio* members, they compose the town meeting, which exercises practically all powers vested in the town as a corporate body. No other change of importance is contemplated. Regular town officers are chosen, elections conducted, appointive positions filled and town meetings attended as formerly. Subject to such restrictions as the town meeting members may prescribe,—usually little more than recognition and identification on the floor of the meeting,—any elector of the town may speak at any meeting, but only delegates may vote.

But the communities adopting this form are among the larger towns, containing, when the change was made, from twelve to thirty-three thousand inhabitants. To them the inadequacy of a primary assembly was the principal defect. But another group, none exceeding 11,000 inhabitants and the least populous Mansfield, with only 6,000, attempted to remedy administrative difficulties. In an effort to consolidate the scattered departments familiar to so many local administrations, and to combine a centralized responsibility with the merits of a town meeting, special charters were granted to the towns of Norwood, Mansfield, Middleboro and Stoughton. Provision was made for a redistribution of administrative functions, a reduction of elective officers, and the appointment, by the selectmen, of a town manager with duties embracing those usual to a city manager. The town meeting was maintained, practically unimpaired.

In 1924 the town of Walpole adopted what its advocates classify as a "modification of the town manager idea." Five selectmen are designated as the "lawful successors" of various

offices, boards and commissions, and are empowered to appoint a "town engineer" to supervise the more technical problems of administration,—particularly those pertaining to highways and water supply. The town of Lexington has simply vested its selectmen with the power to act as a board of public works, and further instructed them to appoint a superintendent to serve as an administrative officer. Numerous communities have attempted more moderate reforms through the use of boards of survey, town planning boards and boards of public works. While not the least important expedient has been the creation of finance committees (usually appointed by the moderator but at times elected by the voters) to act in the dual capacity of financial advisers and steering committees to their respective town meetings.

#### UNREST IS STIRRING

But such administrative arrangements are temporary,—at the most, perhaps, transitional stages leading towards representative government. The larger towns continue to feel the pressure of new and complex situations. Of those in excess of 10,000 population (and there are twenty-six such communities), nine have turned to the newer forms described above. As many others show varying degrees of interest towards political alterations. Framingham, the largest unlimited town meeting government in the state, with potentially close to 7,000 voters, rejected a city charter in March, 1925, hardly, however, on the merits of the case. The towns of Milford, Wakefield, and Natick have committees at work that will presumably make recommendations at the annual meetings of this year. Amesbury, Braintree, Plymouth, Saugus, and Winchester, indicate more or less recent discontent,

varying from the action of Winchester rejecting in 1917, after some twenty years of agitation, a town manager charter, to Saugus, where interest seems to be confined to sporadic newspaper agitation.

In addition, numerous towns of smaller population, but with an electorate exceeding 3,000, indicate political unrest. Both Milford and Milton have committees at work. Whitman, on several occasions, has rejected the town manager form. Athol has made investigations relative to a change, and Andover has recently been favorably disposed towards a limited town meeting. Within still smaller communities there is, of course, less dissatisfaction, but there are evidences in such towns as Abington, Canton, Chelmsford, Dartmouth, Great Barrington, Hingham, Ludlow, Uxbridge, and Ware, that a potential electorate of from eighteen to twenty-five hundred voters with accompanying administrative difficulties, is causing misgivings.

#### WILLINGNESS TO EXPERIMENT

The conservatism of the Bay State is proverbial. But it seems that the extreme reluctance to lay aside the town meeting may result in a unique liberalism. There have been, recently,

at one time, as many as seven separate types of municipal control within the commonwealth.<sup>1</sup> It is difficult to judge of the success of the newer ventures. The limited town meeting leaves untouched the administrative problems of government, and gives a legislative organ that seems to differ very little from a city council of unwieldy size. The town manager type, on the contrary, offers no relief to an expanding town meeting, and can claim, therefore, hardly more recognition than that due to a temporary, although, perhaps, beneficial, administrative expedient. Other alterations are largely modifications of it. Although but a few years old, there have been, in each instance, no apparent failures, and there is much evidence of local satisfaction, some of it, perhaps due to other considerations than the excellence of the form itself. But possibly within this atmosphere of experiment there may yet evolve new features that will aid in solving the perplexities of local government.

<sup>1</sup> There were examples of each of the four plans under the Massachusetts optional charter system, —i.e., the old mayor council plan, the new mayor council plan, the commission plan and city manager plan. In addition, there were three types of town government, —i.e., the unlimited town meeting, the limited town meeting and the town manager.



# THE UNIVERSITY AND THE CITY

BY DR. EDWARD A. FITZPATRICK

*Dean of the Graduate School, Marquette University*

*How Marquette University honors distinguished public service.*

Thou hast heard men scorn thy city, call her wild  
Of counsel, mad; thou hast seen the fire of morn  
Flash from her eyes in answer to their scorn!  
Come toil on toil, 'tis this that makes her grand,  
Peril on peril! And common states that stand  
In caution, twilight cities, dimly wise—  
Ye know them, for no light is in their eyes!  
Go forth, my son, and help.

EACH year Marquette University at the annual Civic Convocation makes an award of certificates of Distinctive Civic Service to citizens for, "distinctive civic service, voluntary in character, and without expectation of reward other than the service itself." The award this year was made to a judge of a circuit court, a man and wife who are social workers, a man largely responsible for the harbor development, and a sister in a parochial school.

I shall try briefly to put the idea of the Civic Convocation in relation to the social and economic facts which are its excuse for being.

## TOWERS OF BABEL

One of the wonders of the modern world is the modern city, but whether it is an instrument of good or of evil, the event will teach us in the hour. The modern city has come in the wake of our increased populations, of space annihilating means of communication and transportation and of our industrial concentration. We have piled up our cities until socially they are veritable towers of Babel. The American city has been described as producing an unintermittent flow of ugly industry, vapid art, of confused thought

and morbid life, of sordid business and arrested morals. Instead of being an agency of social good, it becomes perverted and brings forth the very things it is designed to correct or prevent. It manufactures social derelicts, social abnormality, social defectiveness and social crime, and need I add, what is the same thing, individual dereliction, abnormality, delinquency and crime. These follow inevitably on the trail of the mushroom growth of the city with its congestion, confusion, chaos.

## OUR FAVORITE POLITICAL AND SOCIAL DEVICES NOT EFFECTIVE

Politically we have a naïve faith in mere governmental machinery as an agency of social good. Nor is that all. Under the influence of our love of slogans and catch phrases, such as "turn the rascals out," we find that after change is made, all we have done is to put other rascals in with a more venal rascality perhaps, but more hypocritical because of its pretention to virtue. Our reform administrations have not adopted a motto frequently used by one of the persons to receive a certificate of distinctive civic service tonight, "Reformer, inform thyself." Business men administrations, with the best of good intentions and the highest personal integrity, have found something else necessary. There is a vision without which people perish and cities become as Ninevah and Tyre. "Lacking the vision of the university, the city becomes the breeding ground for all the tribes of charlatans from patent

medicine men and palmists to panaceamongers, political, social, and religious." And should the university not see its obligations to the city, it would become an intellectual and moral vacuum.

You think the picture a little too dark and overdrawn perhaps. It is not dark enough, or its high lights are not brought in sharp enough relief unless the citizen is shocked out of his complacency. The evils of indifference are no less real than the evils of malice. Inefficient government, not necessarily dishonest government, but just incompetent government, is just as baneful in the results as dishonest and malevolent government.

#### IS URBANIZATION NECESSARILY INIMICAL TO STANDARD OF LIFE

The strain on the social machinery, governmental and voluntary, is great under modern conditions. We have crowded or herded together faster than we have learned to live together. We have yet to learn the art of living together for the purpose of developing to the utmost individual capacity. Urbanization must cease to be a process inimical to even minimum standards of living with reference to privacy, health, and the rational employment of leisure; it must be truly the process of making urbane, with that refinement of manners, and elevating converse and social relations that fine art of living, in short, which we associate with the word.

Many proposals to remedy the conditions in the process do not now concern us, training for public administration; inescapable, not merely obtainable information for the citizen; higher type political personnel, an active citizen interest in government. But what is more important is active, even enthusiastic, public service by the citizen. "Until the citizen feels that as an inescapable personal obligation,"

says Bailey, "there can be no democracy," and may we now add, no real city. What we need is the official who goes beyond the routine of his office to show new social possibilities, and the so-called private citizen who, without nice calculation, does the social job that lies nearest him, whether it is called his or not; or more concretely, we need these types many times over, the fireman who gives up his life in the performance of his duty, the teacher who is more interested in making boys men, and girls women, than in teaching arithmetic or geography, the philanthropist who gives much to relieve human need and suffering, without letting his left hand know what his right hand is doing; the women who responded splendidly to the call of service in time of war; and the men and women in every walk of life, with or without social position, with or without money, those who get in the newspapers, and those who do not, who give themselves to the no less imperative needs and to win the no less renowned victories of humdrum everyday life of quite ordinary people—for the aged, the tuberculous, the industrially crippled, the poor, the many unfortunate of every kind. These citizens of the common good are the people who make a city or remake it.

#### DEMOCRACY NEEDS METHODS OF SOCIAL APPROVAL

The older nations of Europe have discovered ways of expressing social approval of these things through Legions of Honor or the like. Democracy has yet to develop similar social approvals. It is these people in Milwaukee that Marquette University would give its word of approval and good will and hope for even richer achievement. The Civic Convocation is the means the University uses to call the attention of the community itself in a dramatic way to the service of such



persons in the upbuilding of man through our social life. It is, too, one way Marquette with a vision of a University would identify itself with Milwaukee, particularly with that

greater Milwaukee, which shall be even a greater, higher, better influence in the civilizing, urbanizing, and elevating of a million or more people in the years to come.

## LOCAL GOVERNMENT IN IRELAND UNDER THE FREE STATE

BY JOHN J. HORGAN

*Cork, Ireland*

*Mr. Horgan is a solicitor, residing in Cork, who has held numerous local offices and has written widely on legal and political topics. You will find his article both scholarly and captivating.*    ::    ::    ::

THE history of local administration in Ireland is so closely interwoven with the national history that a short summary of its essential facts is a necessary preface to a more detailed consideration of the subject. In early Ireland local administration in the modern sense of the word did not, of course, exist. Councils of representative men met from time to time to deliberate on the simple necessities of their local affairs. They were generally held in the open air, and were called *airecth*, from the word *aire*, meaning a chief or local man, for the king or chief of the locality always presided over them. Places devoted to this important purpose were held in much veneration and were not put to any other use. The political unit of local government, namely, the smallest area with a single government under a chief or king was the Tuath. A Tuath contained about 177 English square miles, and there were 184 Tuaths in all Ireland. Sometimes three, four or more Tuaths were united to form one large territory under a king and this was called a Mor-Tuath or Great Tuath.

The kings or chiefs had to carry on their government in accordance with the immemorial customs or unwritten laws of the district, and their authority was further limited by the obligation to consult the council of their chief men.

It is quite certain that in time a complete system of local administration would have developed from this democratic autocracy, but the foreign invasion of the Normans checked its growth and eventually destroyed it. The Anglo-Normans first settled in the towns along the Eastern seaboard, and the importance of the town in the system of government established by them in Ireland cannot be exaggerated. The Romans used the municipality as an instrument for extending their sway and maintaining their power throughout the lands surrounding the Mediterranean. So did the Anglo-Normans in Ireland. The government of the towns which fell into their hands was remodelled, the chartered borough of England serving as an exemplar. New towns were established throughout the tribal lands which they conquered, and

they in turn received a similar form of government. In all these cases the various rights and privileges conferred depended upon a charter or charters granted by English kings or Norman nobles. But unlike the Romans the Anglo-Normans instead of mixing with the native population at first held aloof and turned their civic communities into the garrisons and outposts of their power. The native Irish were treated as outcasts and aliens in their own land. Their tribal customs were ignored, their laws and language banned, and they themselves cut off, as far as possible, from friendly intercourse with the new settlers. But it was impossible to shut the Irish out. By degrees the towns were all flooded with Irish life, and the burghers became the champions of Irish freedom. Irish civilization completely embraced the incoming peoples till in the words of one of the old chroniclers they became "more Irish than the Irish themselves."

#### IRISH EXCLUDED FROM LOCAL OFFICES

This development had to be stopped, so during the Tudor period the jealous statecraft of England proceeded to reduce the power of the Irish towns, and in the reign of James I the whole course of municipal life in Ireland received a new direction. The very wells of municipal and national life were poisoned when six Ulster counties were planted with alien colonists. The charters granted to the towns of the newly planted district did not confer civic power on the whole body of the citizens, but on small select bodies of the inhabitants called the "free burgesses," who were generally twelve in number, and who elected the corporate officials and ruled the town. In them was also vested the important function of returning two members to represent the town in the Irish Parliament, thereby shutting out the general

body of the inhabitants from all voice in public representation.

Thus early was instituted the policy of "no Irish need apply." New boroughs of a similar nature were soon created throughout the other Irish provinces, and the result of this vicious system was soon apparent. It was converted into an instrument of racial and religious tyranny and public degradation. Throughout the Southern provinces, Catholic corporate officials were deprived of their offices, fined and imprisoned, because they refused to attend service in the Protestant Church or take the insulting oath of supremacy. What followed was one long sordid story of misgovernment, corruption, jobbery and intolerance. These select bodies were completely irresponsible. They rendered no account of their actions to the general body of the inhabitants. Municipal affairs were neglected, or where attention was paid to them it was solely with a view to the interests of the governing class. Corporation appointments, even inferior ones, were confined to members of that class or to their families and friends. This state of things continued for a century and a half, and by the system of grand jury government was extended to the counties as well. Each county had a grand jury, nominated by the sheriff, or in other words by the English executive, from amongst the landlords of the county, peers alone being excluded. This body under the direction of the judge of assize, struck the rates and raised the revenue requisite for local services. They met once a year in the county town, and the novels of Miss Edgeworth, now almost forgotten, give us a vivid picture not only of misdeeds and malversations on the part of these strange administrators but also of their pomp and circumstance.

This corruption and luxury gradually



disappeared in the nineteenth century, and the grand juries were brought into closer dependence upon the central government. The state of things was much the same as regards the relief of the poor and the medical and public health services. These functions were controlled in each poor law union by a board of guardians, consisting in part of justices of the peace or magistrates, and in part of representatives elected by public vote on a restricted franchise.

#### LOCAL GOVERNMENT RESTORED

The Municipal Corporation Act of 1840 marks the beginning of a new epoch in Irish local government. The old corrupt town corporations were swept away, and the control of municipal affairs transferred from small self-elected cliques to the general body of the urban inhabitants. Other laws in quick succession extended and improved the machinery of municipal life, and finally in 1898 the Local Government Act of that year set up a complete system of local government on English but democratic lines for the whole country. Shortly after it was passed a shrewd French observer, M. Paul Dubois, pointed out that England would find herself compelled to take back from the Irish this full control of local affairs or to concede, what she had for a century refused, full management of their national affairs. She has had to adopt the latter alternative. The Local Government Act of 1898, although indeed its authors knew it not, was the legislative father of the Irish Free State.

#### PRESENT STRUCTURE

The fundamental framework of local administration in most countries consists of three parts; first, a central controlling and consultative body, which forms part of the national government and whose duty it is to supervise in a

paternal and impartial manner the working of the local councils; second, the local councils themselves elected directly by the people; third, the expert officials whose duty it is to advise the local councils, to carry out their policy, and to devote their technical skill to local affairs. Under our system, which is closely modelled on the English, the ministry of local government and public health of the Irish Free State is the controlling body or first part, the town councils, the county councils, and minor public bodies elected by the people, the second; the expert officials, such as town clerks, law advisers, engineers, medical officers of health, and so on, elected by the councils, the third. The areas of local administration as provided by the Act of 1898 may be set out under four heads:

1. Urban areas, namely the cities and towns which are under the control of borough councils or commissioners.
2. Rural areas, under the control of rural district councils.
3. County councils in each county.
4. Boards of guardians who dealt with relief of the poor.

All local councils are elected on a wide franchise, which is practically manhood suffrage, under a system of proportional representation. Women since 1911 are not disqualified by sex or marriage from being members of local councils, but clergymen cannot be elected to any local body. The duties of the town councils and county councils include the making of by-laws and rates, the safeguarding of public health, prevention of fire, water supply, the care and maintenance of streets and roads, municipal trading, and joint control of such institutions as sanatoria, mental hospitals, harbors and the numerous miscellaneous duties which have been increasingly delegated

to local councils of recent years. Under all these headings a great variety of duties have to be discharged. The work is principally transacted by committees, who are mainly appointed from among members of the Council. The acts of every committee, save joint boards made up of delegates from several councils, must be submitted to the council for approval. The officials are all appointed by the direct vote of the council, which also elects a chairman, who in the cities bears the title of Mayor or Lord Mayor. Unlike the French, the German, and especially the American plan of local administration, the system in force here does not divide the legislative and executive powers and attempts to provide no arrangement of checks and balances.

The number of members of the councils vary according to the area and population of the district concerned, but are usually much too large in number. The financial requirements are estimated half yearly by the secretary or treasurer and then submitted to the various committees, who, after discussing and altering or approving same, forward them to the council, whose final approval is necessary before the rates can be struck or levied. Loans can be raised under the Public Health and Housing Acts as well as other miscellaneous laws, but the consent of the Local Government Department must be first obtained, and for this purpose a local inquiry is usually held in public at which all interested parties or any ratepayer may appear and oppose or support the scheme for which the loan is required.

Under the English régime the Local Government Board was bureaucratic, arbitrary, narrow-minded and anti-national. It was guilty of all the abuses of authority and filled with a passion for directing and complicating everything. It arranged its plans on

the same large and stately scale as in England and forced the councils to extravagant expenditure which the poverty of the country did not justify. The establishment of the Irish Free State brought Irish local government for the first time under the direct control of an Irish government. But the circumstances of civil war and disturbance which marked the first few years of the Free State's existence were not conducive to constructive policy of any kind and in matters of local government at all events a policy of "*solvuntur ambulando*," or dealing with difficulties as they arise, rather than the application of a settled policy based on decided principles, has been adopted.

The most decisive step taken by the government was to suppress the town councils of Dublin and Cork as well as several minor boards for proved inefficiency and corruption, and to substitute in their place paid city commissioners on the American plan but under direct control of the Local Government Department. Under the Local Government Act of 1923 it has also abolished the rural district councils and the boards of guardians, delegated the sanitary duties of the county councils to boards of health, provided for payment of traveling expenses to local authorities, taken power to dissolve any council guilty of inefficiency or refusal to carry out the orders of the Local Government Department, and given any council that chooses power to delegate its powers to a manager or commissioners. This last provision may indeed contain the germ of a local government development on the lines of the American city manager plan.

#### DEFECTS HAVE HISTORICAL ROOTS

The defects of the present system of Irish local government arise largely



from its historical development. In the first place it did not develop from national requirements and traditions, but was imposed from without by the English government generally for purely political reasons, and always, no matter how well-meaning, without real knowledge of Irish conditions. What was good enough for England was *ipso facto* good enough for Ireland also. In the second place, local government in Ireland has always been regarded by the people as a side issue. The engrossing nature of the struggle for national self-government caused men to be selected as candidates for local councils rather for their political complexion than their personal character, and the clan system, which still exercises its influence in Irish public and social life, led to jobbery and inefficiency. A wise economy wedded to a wide spirit of efficiency would seem to be the best program for the councils which have recently been elected, and the close control of their conduct which the Local Government Department can now exercise will undoubtedly tend to move them in this direction. At the same time it would be well for those in authority to remember that local councils, like children, will never learn to walk if they are always held in leading strings.

The Local Government Department has inherited many of the bad methods of its predecessors and is inclined to favor bureaucratic centralization of administration and expensive schemes of various kinds, which whilst they look well on paper, are more suitable for a wealthy and densely populated country like England than they are for Ireland. It does not seem to have really decided the fundamental question whether its policy is to be centripetal, or centrifugal. At present it is a somewhat confusing and illogical mixture of both these tendencies. Whilst it has suppressed

several inefficient councils and replaced them by commissioners or managers solely responsible to the central government, it has at the same time enlarged the functions of the county councils and increased their membership to such an extent as to make them mere unwieldy "talking shops" quite incapable of discharging their duties expeditiously or efficiently. Mr. Burke, the minister responsible for its policy, does not seem to have learnt the lesson to be derived from the recent developments of local government institutions in other countries, namely that efficiency decreases in proportion to the size of the council, and that it is desirable to entrust the executive functions of local government solely to expert officials and make them responsible for the result.

It is obvious from the experience of other countries that expert official leadership under ultimate democratic control is the best of all. But it must be leadership on the spot with full powers, and not in a government department a hundred miles away with no knowledge of local conditions or difficulties. Democracy suffers at present, both here and elsewhere, from diffused authority and amateur experiments, and it would seem that the ideal to be aimed at in the future development of Irish local government may best be described as an expert autocracy under democratic control. This is not only in line with modern experience elsewhere but is best suited to the temperament and traditions of the Irish people. Something similar to the American council-manager system, with necessary modifications, would seem to be extremely suitable to our needs. But the first and most crying necessity is to make the people themselves take a real interest in the problems of local administration. Without an intelligent electorate behind it the

most efficient local government system will not work properly. There is every sign that such an electorate is being created in the Irish Free State. The success and ease with which individual state-appointed commissioners have managed the cities of Cork and Dublin during the last few years has set a headline that he who runs may read, and it is pretty certain that a development of this system on more democratic lines would meet with universal approval. The next step, therefore, lies

with the people themselves for if they take the initiative in demanding a new local government system based on modern principles they cannot be denied. By intelligent application of sound principles, by progressive methods, by looking into the future and planning wisely, thus and thus only can those responsible for the local government of the Irish Free State build up a happy and healthy community, a place "where men live a common life for a noble end."

## BALTIMORE'S NEW RETIREMENT SYSTEM

BY GEORGE B. BUCK

*Consulting Actuary, New York*

*Baltimore substitutes a sound municipal pension system for various departmental and piecemeal plans. :: :: :: :: ::*

A GENERAL retirement system for all employees of the city of Baltimore, with the exception of policemen, went into operation early this year and employees have just cast their ballots to elect the members of the board of trustees, who are their representatives. The detailed provisions of the plan were developed by a retirement commission appointed by the mayor in 1924, following a general survey of the pension problem of the city made by the city commission on economy and efficiency in 1923. The new system is designed to supplant the various departmental retirement acts for firemen, teachers and general employees, which were found by the retirement commission to be unsound financially and unsatisfactory in form of benefit.

The new system furnishes a uniform basis for the retirement of all city employees with the exception of policemen, who unfortunately were specifi-

cally excluded from the operation of the system by the charter amendment providing for its establishment. The provisions of the system were adopted after a survey of the various sound governmental retirement plans in operation elsewhere and after a most careful investigation of the retirement needs of the city. The plan is believed, therefore, to have many points of interest to other cities which may be seeking a sound and equitable method of taking care of their superannuated and disabled employees.

The benefits of the system cover the main contingencies against which protection is needed by any salaried employee: that is, old age, disability and death.

### THE OLD AGE OR SERVICE BENEFIT

An old age or service benefit is payable at the request of any employee who has attained age 60. Retirement



is compulsory at age 70. The amount of retirement allowance payable is dependent upon the number of years of service of the employee at age 60 and consists of approximately one-seventieth of the average annual compensation received by the employee during the last ten years of his service multiplied by the number of the years of service. An employee retiring with thirty-five years of service, therefore, receives about one-half of his average final compensation while employees retiring after longer or shorter periods of service receive proportionately more or less than half pay. Since the amount of benefit varies according to the years of service of the employee, there is always an incentive for the employee who is able to do so to remain in service and increase his retirement allowance.

#### DISABILITY BENEFITS

The system includes also a provision for the retirement of an employee who is incapacitated for service before age 60. There is an advantage to the city in being able to relieve the service of a disabled employee without the necessity of leaving him with little or no income. Furthermore, from the standpoint of the employee a disability benefit appears highly desirable because disability is probably the danger viewed with the greatest concern by employees and the one against which they ordinarily find the most difficulty in protecting themselves.

If disability occurs due to accident connected with the performance of duty the plan provides that a pension of  $66\frac{2}{3}$  per cent of the average final compensation of the employee shall be payable regardless of the years of service of the employee. If disability occurs due to ordinary causes no benefit is payable unless the employee has had at least five years of service.

The allowance payable upon ordinary disability is approximately nine-tenths of the allowance which would be payable after the same period of service upon service retirement. A minimum benefit of 25 per cent of average final salary is included to take care of the employees incapacitated after short terms of service. Any employee retired on account of disability is examined every year by the medical board of the system and if examination proves that he has recovered his health sufficiently to permit his restoration to active service his retirement allowance is discontinued.

#### DEATH BENEFITS

The system includes certain benefits payable upon the death of an employee before retirement. Although it did not appear necessary to include such benefits in the retirement system from the standpoint of the efficiency of the city service such benefits were included because of the advantage to the employee of obtaining such insurance through the retirement system. The death benefits make the plan attractive to the young employee who thinks that he will not remain in service long enough to retire but is glad to secure the insurance offered by the plan while he is in service. A more liberal benefit is payable upon death due to accident connected with the performance of duty than upon death due to ordinary causes.

In the event of accidental death connected with the performance of duty a pension of one-half of the average final compensation of the employee is payable to his widow until her death or remarriage and to his children until they attain age 18 or to the dependent parents if there be no widow or children.

In the case of either accidental death or disability the plan provides that any

benefit payable under the workmen's compensation law be offset against any benefit payable by the retirement system.

Upon death due to ordinary causes a lump sum payment is made equal to 50 per cent of the average annual compensation of the employee. The contributions of the employee with interest are also payable to his estate in the event of death.

#### BENEFIT PAYABLE UPON DEATH OF BENEFICIARIES

The plan does not include any benefit at the expense of the city to be paid in cases of death after retirement. It does provide, however, that any employee at the time of retirement may elect to provide for his dependents by taking a lesser retirement allowance and providing that some payment shall be made upon his death or that his pension or some proportion of his pension be continued to his designated beneficiary.

#### METHOD OF FINANCING

The retirement system is a jointly contributory system, that is, both the city and the employees contribute to its support. In this respect it follows the city systems in New York, Boston, Providence, San Francisco and other cities which have devised scientific plans for the retirement of their employees.

#### CONTRIBUTIONS BY EMPLOYEES

Each employee contributes a certain percentage of his salary to the retirement system. The rates of contribution range from 3.37 per cent to 8.06 per cent according to the sex, occupation and age of the employee at the time of beginning membership. Employees' contributions are credited to their individual accounts in the retirement system together with interest

thereon. When the employee is ready to retire the amount standing to his credit is used to provide an annuity which is added to the pension provided by the city, the annuity and pension together making the total retirement allowance payable. Employees' rates are computed to provide approximately one-half the allowance payable at age 60. If the employee resigns before retirement he may withdraw the entire amount standing to his credit and if he dies the amount with interest is returned to his estate. Under no condition does the employee forfeit his contributions. A plan of this type is often called a savings bank plan because the individual employee's contributions are treated as they would be if deposited in a savings bank and are used solely for his own benefit.

#### CONTRIBUTIONS BY CITY

Just as employees put aside a certain percentage of their compensation each year, the city makes an annual contribution equivalent to a certain percentage of payroll so that when an employee is eligible to retire an adequate reserve from which his benefit may be paid has been accumulated. The city pays a normal contribution which each year takes care of the liability which has accrued on account of the current services of employees, and in addition it pays a deficiency contribution which is necessary in order to take care of the accrued liabilities of the system at establishment.

At the establishment of any retirement system the most difficult problem to solve is how to meet the liabilities of the system on account of the prior service of employees in service. To make the retirement system immediately effective it is usually desired to give employees full credit for such service. The employees, themselves, many of whom are eligible to



retire shortly, can do very little toward making up any part of the contributions on account of back service and the burden usually falls on the city. Baltimore has chosen to make a special deficiency contribution for this purpose which will be payable for about thirty years.

According to the preliminary estimate the normal contribution on account of membership service or the continuing cost of the plan was computed to be approximately 4.33 per cent of the payroll while the accrued liability contribution which is to be set after the first actuarial valuation of the system after its establishment was estimated to be approximately 2.94 per cent of the payroll. It is therefore anticipated that the total contributions of the city will be 7.27 per cent of payroll for approximately thirty years.

#### ACTUARIAL BASIS FOR RETIREMENT SYSTEM

Baltimore has not followed the course which has been most common in the past in establishing governmental retirement systems. In the majority of existing plans in this country the income has been set without regard to the actual cost of the benefits and the liabilities incurred by the establishment of the retirement plan. The retirement commission adopted as one of its guiding principles that it would make no recommendations to the city or employees without knowing the cost which its proposal would involve not only in the immediate future but in the continued operation of the system recommended.

In order that it might have the best basis available on which to have the cost figures prepared the commission had a very careful actuarial investigation of the city service made. It collected data covering the date of birth, years of service and salary of every

active employee and pensioner of the city as of June 30, 1924, and similar information for all employees who had left the service during a period in the past. On the basis of the actual data collected tables were prepared for use in calculating the cost of the existing retirement provisions and of any proposed retirement system. Preliminary estimates of cost were prepared on the basis of various retirement benefits and the plan adopted was selected as a plan which would come within the cost which the city was willing to undertake.

To safeguard the future operation of the fund and to insure its permanency the retirement law provides for an annual actuarial valuation of the assets and liabilities of the system and for an adjustment of the contributions of the city so that the city will fully cover its accruing liabilities each year. Periodic investigations into the service and mortality experience of members and pensioners will be made to determine what changes, if any, are necessary in the financial provisions of the system to keep it on a sound basis.

#### APPLICATION OF PLAN TO PRESENT EMPLOYEES

Before recommending the plan which has been adopted the retirement commission had actuarial valuations of the existing retirement plans of the city prepared. It found that there was no uniformity of benefits under these plans, that their annual cost to the city would probably increase rapidly in the future and that their continued operation would eventually result in dis-appointment to the employees and embarrassment to the city. Since the plan for teachers could not continue without material aid from the city and the benefits of the new system were more liberal, a definite provision for discontinuing the old teachers' system

was put in the law under which the system has now been discontinued. In order to effect the gradual dissolution of the other plans, with the exception of that relating to policemen, the new retirement law provides that all future entrants into the city service shall at the expiration of six months service become members of the new system. Present employees may elect to stay out of the new system but the advantages of membership are such that probably about 80 per cent of present employees have come into the system.

#### ADMINISTRATION OF PLAN

The administration of the retirement system is vested in a board of trustees of five members consisting of the comptroller of the city, two members of the system to be elected by the membership and two citizens of the city.

The ordinance contains very definite provision in respect to the building up of reserve funds of the system of which the board of trustees are trustees. Separate funds are maintained for the accumulation of employees' contributions and the city's contributions. Interest credits on these funds at 4 per cent per annum are made an obligation of the city. The funds of the system may be invested only in investments legal for insurance companies. The city pays the expenses of the operation of the system and the reserves are to be

used only for the payment of benefits.

Under the supervision of the board of trustees the records are maintained which are necessary for actuarial valuations and investigations. The ordinance covers very definitely the many details relating to the operation of the system and should be valuable to other cities desiring to substitute a sound retirement plan for an unsound plan or to establish a retirement system for the first time.

It is believed that the retirement system compares favorably with the other sound retirement plans in operation in this country and should be a source of satisfaction to the city and to employees. To the employees the system furnishes a plan of automatic savings and at the same time gives valuable protection in the event of death or disability or superannuation which would be very costly to secure otherwise. To the city the system provides a sound and economical method whereby it may take care of the old and disabled city employees and thereby maintain the service at its maximum efficiency. By substituting the present system for the various departmental laws it has taken a step which will save taxpayers many thousands of dollars in the future. Baltimore is to be congratulated on the forward step that it has taken in this important matter.



# THE FATE OF THE FIVE-CENT FARE

## I. PITTSBURGH: A NEW CONTRACT BRINGS MUTUAL UNDERSTANDING

BY CHARLES K. ROBINSON

*Member of the Pittsburgh Bar*

*Six years ago the REVIEW published a series of articles on the fate of the five-cent fare. Conditions have stabilized themselves since then and the nickel fare is little more than a memory. Today the important thing is adequate service at a reasonable rate. The present series begins with Pittsburgh, where better service plus a desire to please has done the trick.*    ::    ::    ::    ::    ::    ::    ::

"Co-operation is not a sentiment—it is an economic necessity."—Charles Steinmetz.

THE Pittsburgh Railways Company after six years of receivership operation passed into the hands of its lawful owners on February 1, 1924. This was accomplished largely by reason of a contract between the Railways Company and the city of Pittsburgh and some smaller municipalities, the contract being fundamentally of the "service at cost" type. In the succeeding two years the Pittsburgh Railways Company has been awarded the Coffin Prize for distinguished accomplishment in improvement in service, in public relations, economies of operation, improvements in construction practice, in safety of operation, in the establishment of good relations between management and employees and in financing improvements in the property.

In the brief space of two years the company has perhaps accomplished more in all of these matters than any other street railway company in the United States in a like period. A hasty consideration might lead to the conclusion that these results were fundamentally the fruits of this contract. In part they are, but agreements do

not so much make conditions as they reflect them.

The results accomplished may be attributed to three outstanding causes and developments.

First, a historic background of over-capitalization, bad public relations, and uneconomic and unsound restrictions upon a proper fare and a proper return, which has taught both sides how to avoid these mistakes in the future.

Second, the elimination of most of these conditions by a valuation of the properties by the public service commission and the evolution of the agreement of February 1, 1924, and

Third, a new spirit of management and salesmanship.

### HIGH FINANCE OF 1901

The first great mistake in the development of the Pittsburgh Railways Company was made in the year of 1901 when the company was organized as a mere leasing and operating company upon a basis of obligation and capitalization that not only reflected all of the then probable earnings but all of the estimated possible future earnings. Many mistakes were made in these estimates of future earnings, the prin-

cial one being in the costs of operation. The net earnings in fact never approached the theoretical calculations made by the promoters of this consolidation. As these facts were revealed, it became apparent that the company could not pay the fixed charges of the consolidation and under no circumstances could it pay any returns on the capitalization of the Pittsburgh Railways Company. About 1913 the situation itself forced a partial internal reorganization and a reduction of the annual fixed charges.

This situation is forcibly illustrated by a remark of one of the largest promoters of consolidations of street railways in Pittsburgh. During the latter part of the 90's he was depositing a large bundle of Pittsburgh Railway securities in a safe deposit box and remarked that these securities would probably be the biggest asset in his estate. He died some years later and the securities were of comparatively little value. The heyday of street railways from a speculative point of view had come and gone. The Pittsburgh Railway securities continued to shrink in value and the \$160,000,000 par value of securities authorized, most of which were outstanding, dropped to a point where in 1919 their market value probably did not exceed \$40,000,000.

The valuation made by the public service commission in 1920 was \$62,500,000. It was substantially more than the then market value of the securities of the company and from that time the securities steadily rose in price. Today some of the securities are selling for more than double their market price in 1920. The glamour of street railway speculation has, however, largely passed and a new era is dawning for street railways. The public and public officials realize that they are fighting for their very existence against other modern forms of transportation

and the public is anxious to save the street railway, even to the point of waiving past and present municipal claims and perhaps furnishing financial aid, at least for rapid transit. This will ultimately attract a new type of conservative investor, when it is realized that moderate returns are practically secure.

#### FORCED INTO RECEIVERSHIP

The consolidation was in fact merely an experiment, so far as the leases and agreements of consolidation were concerned, but the demands of the public and the natural evolution of the system inevitably tended to make the consolidation a physical reality and to prevent a dismemberment of the loosely tied underlying street railway and traction companies. Step by step the consolidation became a reality in spite of the limited life of the agreements, the mistakes of capitalization, and the deficits in net earnings. The unanswered and unheeded demands of depreciation, the failure to make proper renewals and replacements and franchise limitations on fare combined with public opposition to increased fares and the high wages and other conditions incident to the war brought on the receivership in the spring of 1918.

The great accomplishments of the receivership were the partial rehabilitation of track and roadbed of the company, the holding together of the underlying companies to prevent dismemberment and independent operations, and the application of the income largely to the general improvement of the properties and the furnishing of adequate service.

A receivership, however, cannot develop an extended program of improvements and cannot establish the financial relations and arrangements necessary to build up and improve and extend the properties on an extensive



scale. Consequently the new management on February 1, 1924, found itself with a property partially rehabilitated as to roadbed and track but woefully deficient in modern rolling equipment. The energies of the new management have been directed on the property side largely to the replacement of the cars. In the first two years of ownership management, three hundred and twenty-eight cars were purchased of the most modern type designed to meet the various demands of present-day operation, such as one- and two-man operation, and multiple units.

#### TERMS OF THE CONTRACT

The contract was developed during 1920 and 1921 and was executed on December 20, 1921, but could not become effective until February 1, 1924, because of the receivership. The contract itself contributed to the whole situation in many ways; it marked the end of the long controversy as to the fair value of the property, and the amount of the income to be applied as a return to capital; it ushered in the day of a new public relationship in which public officials, the public at large and the Railway Company's ownership and management were sincerely co-operating to accomplish the best results, with the money available. The twenty-year struggle between the public and the public officials on one side and the Railway Company's ownership and management on the other for a proper division of the income between returns to capital, to management, and to service and maintenance of properties was ended for at least ten years by the contract. This alone was a tremendous contribution to the solution of the whole problem in that it released all of the energies of management to the problems of operation, and it eliminated the general opposition of public officials and of the public, and stopped

numerous hearings before the public service commission and the courts on questions of service, maintenance of property, fares and kindred matters. The contract provided a mechanical scheme by which fares would be automatically determined. The contract was worked out after the decision of the public service commission largely as the result of the broadminded policies of the mayor and council of the city of Pittsburgh, and the exigencies of the situation, arising out of the receivership and the inability to earn an adequate net revenue. The contract also provided a board named the Traction Conference Board, which functions with the railway management to reflect the public point of view in all questions relating to service and fares and which attempts to give the Pittsburgh district the best possible railway system and service for the money which the community is willing and can afford to pay for street railway transportation. This affords the maximum of "home-rule" in a state having a public service commission with general jurisdiction over rates and service.

#### SPIRIT OF SALESMANSHIP

All of these elements would have been of little value alone without the new spirit of management and *salesmanship* which came into the properties at midnight on February 1, 1924.

While credit for the results belongs to every department of the organization and the employees, there is no doubt that the lion's share belongs to Thomas Fitzgerald, the vice-president of the company, who had spent about three years in Pittsburgh studying every aspect of the problem. He was ready for the task not only because he had spent three years in a close-up study of every problem, both in its general and in its detail characteristics, but he had been gathering together the nucleus

of an organization which would function with him and which was prepared both by experience and study to inaugurate immediately many helpful and necessary changes in the operation of the properties.

Full credit should also be given in the largest measure to the foresight of the president of the company, Arthur W. Thompson, in mapping out this program, in anticipating the termination of the receivership, and in selecting men to head the new organization whereby the new management stepped into control with a running start, making it possible to bring about the various accomplishments in the shortest possible space of time and to immediately insure the success of the new contract.

Frank R. Phillips, the general manager, seems to have been designed by nature for the position. He is the Railway Company's representative on the Traction Conference Board. William H. Boyce, the head of the commercial and research department, has a real genius for salesmanship. This department was designed to sell the new Pittsburgh Railway Company to the public, and to bring back the vanishing car rider to his seat in the car. It was perhaps the most novel, daring and experimental feature of the new organization. It was entirely new in surface street railway management and possessed powers and a scope of action entirely unknown in street railway management. The results have fully demonstrated the wisdom of the plan, and the expenditure of from \$120,000 to \$240,000 a year upon this department,—these amounts are from one-half to one per cent of the gross revenues of the company.

The changes which have been brought about as the result of the three years of study and of the two years of practical application under the flexi-

bility of the contract have been almost revolutionary in street railway management and salesmanship. Space does not permit of more than a statement of the outstanding accomplishments, and a summary of the detail changes.

A first consideration was to give the public an immediate demonstration of the new spirit of service. This was accomplished by liberal extensions of the transfer privilege and the elimination of many arbitrary and unwarranted transfer conditions which had only served to irritate the public, particularly after it had failed to secure relief by reasonable demands made upon the company. Commission and court proceedings had not secured the desired results because they viewed such questions largely as matters of administrative policy, and therefore not to be interfered with, but to be left to the management of the company.

#### THE WEEKLY PASS—AVERAGE FARES

Following this there began a series of experiments dealing with special fare arrangements by way of weekly passes in the outlying districts, a Sunday pass in the city of Pittsburgh, and ultimately on June 1, 1925, the weekly pass in the city of Pittsburgh. These modifications in the fare arrangements completely eliminated the many objections fairly made by many car riders that they had been obliged to pay two fares to travel comparatively short distances to their work, due to the fact that the railways service radiated from the downtown section of Pittsburgh like the spokes of a wheel and there had never been a satisfactory through-fare provision whereby one could go from one section of the city to another without a double fare. It is an undisputed fact that the weekly pass eliminated 95 per cent of all the former opposition to the fare and transfer arrangements in the city



of Pittsburgh. It also operated to reduce the basic fare, which was ten cents or three tokens for a quarter, to an average of about  $5\frac{1}{4}$  cents per ride.

Studies made show the following average fare per ride, as the result of the fare changes and concessions made, and disclose a steady trend downward in spite of the fact that the basic fare remains three tokens for a quarter:

1923	6.74	cents	average	fare	per	ride
1924	6.62	"	"	"	"	"
1925	5.77	"	"	"	"	"
1926 *	5.27	"	"	"	"	"

\* (4 mos.)

Other fare concessions have included the creation of nine five-cent fare zones in the past two years in place of the regular  $8\frac{1}{2}$ -cent fare zones. In the last two years there have been more than 125 orders effecting over one thousand concessions in fares and fare collections, of which 34 were major changes. As a result thereof in 1925, with only seven months' operation under the general weekly pass, the company carried 370,-412,204 passengers, as against 326,-673,344 in 1924, with about one per cent decrease in gross revenues and with a slight increase in net revenue. Convenience and pleasure riding has substantially increased, largely because of the weekly pass, and it is estimated that each pass holder takes seven rides per day, or at the rate of about 3 cents per ride.

In the first four months of 1926, 135,000,000 rides were furnished by the Pittsburgh Railways Company, as against 108,000,000 rides during the first four months of 1923 (the last year of the receivership), or an increase of 27,000,000 rides, and the cost was \$88,000 less to the car riders. A remarkable demonstration of efficiency of operation combined with the genius of salesmanship, and resulting in incalculable benefits to this community.

The new management promptly replaced all of the old single truck cars with new modern double truck cars, thereby adding to the seating capacity without increasing platform costs. These and many other improvements have, of course, found an equal response in public good will and co-operation, because the public has felt that the company was actuated by a sincere desire to serve and because it felt that the company was giving back to the public a fair share of the income which was reflected in better properties and better service, and for every advantage given to the company at least two were given back to the public.

In order to attract attention to the new cars and to the new spirit of service and management, the company initiated a scheme of painting the cars with a different color, using bright yellow instead of red, and in some instances, painting the cars with an aluminum paint. This was salesmanship of the highest type and of a subtle order in that it not only started public discussion and attention to the new cars, but it suggested a change in policies and management.

Each car really became a messenger advertising to the public the facts of better service, better co-operation and of a sincere desire to meet the public demand. For example, the new bright yellow crosstown car carried such slogans as "Your Suggestions Welcomed," "Use the Trolley—It's Cheaper," "Welcome Passenger."

#### DEFINITE MONEY PAYMENTS TO CITY

The contract provides that definite money payments per annum shall take the place of the former franchise obligations to pave and repair the streets within the railway area and in lieu of indefinite and uncertain car license and other municipal police and franchise charges. The company con-

tributed to this result by a campaign of education both in the city and the neighboring municipalities, many of which have not become parties to the agreement, by signs placed on street work pointing out the amount of the car rider's money appropriated to take care of paving.

Another feature of the contract is that these money obligations to the municipalities are secondary to the agreed return to capital, and are only paid when earned. It thereby affords some flexibility in the financial requirements and operates in place of the "buffer" or "barometer fund" commonly provided in "service at cost" contracts.

The new management also found that it could not maintain its schedules due to congestion in the downtown section, particularly during the rush hours, and it promptly directed its consideration to possible changes in routing which would enable it to not only maintain its schedules but to increase the speed of the car. After bringing forward a plan for shorter looping, which was strongly opposed by the downtown Merchants Association, it was found that satisfactory results could be accomplished by additional franchises on the downtown streets, which would enable the company to serve the downtown merchants and, at the same time, maintain their schedules. Very radical and severe regulations and requirements in the matter of downtown parking of automobiles were also introduced. The result of the whole affair was that the company had the fullest support of the public and the downtown Merchants Association in securing the franchises and in enforcing parking restrictions, and now we have materially improved service in point of schedule operation and the downtown district is more generally served.

The management of the New York

City surface cars has thought so well of these accomplishments in Pittsburgh, that the surface cars carry a placard advertising the fact that

"PITTSBURGH DID IT"

"New anti-parking ordinances were put into effect in Pittsburgh last year in order to provide room for moving vehicles."

The placard also discusses the advantages which had accrued from the parking restrictions in Pittsburgh.

Economies in operation have been accomplished by an increasing number of one man car operations, train operations, increased speed, reduced accidents, increased returns from car advertising, including the extension of car advertising to the outside of the car, and in many other ways too numerous to mention. The Railways Company owns and has taken over the operation of motor buses throughout the city, both as independent operations and as feeders to street car operations.

In the matter of car routing, the company has given most courteous and careful consideration to the various suggestions which have been made and which are constantly being made by car users, merchants and others. The company has, in a number of instances, experimented with rerouting, including some through routing, although not itself always in favor of the change. It has, however, thereby shown that its first consideration was to satisfy the public demand and, if necessary, by an actual demonstration prove the wisdom and justness of its more experienced and riper judgment. On the other hand, it has in other cases been disclosed that the change has worked to the advantage both of the public and of the company.

Under the present arrangements the company has reasonable assurance that



the return to capital is not jeopardized or invaded by reason of these changes or experiments. The company is, therefore, ready and willing to try out promising experiments, and to test the merits thereof by an actual demonstration.

The flexibility of the whole arrangement in the matter of routing, schedules and fares is perhaps the most helpful feature of the contract arrangement.

With this is now combined the present spirit of service, salesmanship and management of the most experienced and skilled order. Anyone living in Pittsburgh during the last ten years would readily admit that all these factors combined have produced results that almost seem to be miraculous, and that seem to defy the economic laws and overcome the diminished buying power of money.

## CINCINNATI'S RIGHT ABOUT FACE IN GOVERNMENT

BY HENRY BENTLEY

*President, City Charter Committee*

*The strategy of the campaign by which the City Charter Committee elected a majority of the council. How P. R. vindicated itself.*

A GREAT campaign has been waged in Cincinnati and a new government is in control at the City Hall. This government is one in which the people have confidence, and the city council justified that confidence in its first official action by selecting as city manager, an outstanding executive and administrator, Col. C. O. Sherrill. Our new city manager has already won the support and confidence of the citizens, the press and the public officials of both the city and the county.

In November, 1924, by a vote of 92,510 to 41,105, the citizens of Cincinnati adopted an amendment to the city charter providing for a council of nine, elected at large, by proportional representation, and a city manager to be selected by the nine councilmen. The amendment was opposed by the Republican organization in Cincinnati and was carried despite the fact that it was voted upon at a presidential election and that the Republican

candidate, Mr. Coolidge, polled 92,511 votes to 26,995 votes for Mr. Davis and 32,547 for Senator LaFollette.

To accomplish this astounding result, it had been necessary for the charter advocates to enter the political arena and form a volunteer ward and precinct organization. The bitterness with which the Republican organization in Hamilton county had fought the proposed amendment was a warning to the charter group of the fight that might be expected in 1925, and it was felt essential that some permanent organization be continued to support independents in the 1925 councilmanic election.

### CHARTER COMMITTEE TAKES THE FIELD

Whether the City Charter Committee would place candidates in the field or would merely wait for the nomination to be made by the two political parties and independents and then select and indorse certain candidates

was not settled until April. By that time it had become apparent that the strength of the Republican organization was so feared by independents that no real candidates could be expected to come forward unless assured the support of some organization. It was further evident that so many independent candidates were seeking nomination that the independent strength would be hopelessly divided and the machine would elect its men. Criticism of the new system of nomination appeared in the editorial columns of the newspaper that had fought the charter amendment on the principle of party responsibility. The charge was made that the charter committee had secured the charter amendment but was afraid to assume responsibility for nominations. The Charter Committee thereupon appointed a nominating committee and this committee sought out nine candidates representative of the community as a whole, and urged them to run for council, promising them their support.

Considerable discussion arose upon the question of whether five or nine candidates should be endorsed, but it was finally decided that better representation to the different elements in the community could be given by endorsing nine candidates and that strength would be gained rather than lost by presenting nine candidates and permitting the public to select among them in the order of their choice.

This decision was of vital importance, in fact the whole character of the campaign hinged upon it. The election of five councilmen was necessary to assure the selection of a proper city manager. The question was whether under the system of proportional representation, there was more likelihood of electing five, by nominating nine, or by nominating a lesser number

and concentrating the strength of the organization upon five or six candidates. The strategy of election under the plurality method suggested the nomination of the smaller number, pure mathematics and the theory of P. R. supported the nomination of nine, provided the voters could be educated to mark nine choices upon their ballots. The decision to nominate nine committed the charter committee to a campaign of education.

#### GUARD AGAINST THEFT OF CANDIDATES

The nominations were decided upon in the latter part of May and were approved at a meeting of the board of directors of the City Charter Committee held on May 26, 1925. Prior to presenting the names, the nominating committee secured from each candidate a written acceptance of the nomination and a promise to run on the ticket and lend support to the election of the other eight candidates. This was very important as it prevented the Republican organization from making a partial endorsement of the group by selecting one or two of the candidates endorsed.

This was the second important decision of the campaign. We had before us the history of the Cleveland election of 1923, where the two political parties after the candidates had been nominated, selected those most likely to win and gave them the party endorsement. To avoid the possibility of the Republican machine selecting certain of our candidates and endorsing their candidacy and in this way breaking the solidarity of the charter group, we secured the pledge of each charter candidate that no literature endorsing that particular candidate would be sent out unless it carried with it one of the campaign cards which the Charter Committee would print. These cards were uniform in design.



The candidate's picture appeared on the left side of the card, and the face of the card requested a vote for this candidate as first choice. On the back of the card appeared the names of all nine charter candidates, with the figure 1 before the name of the particular candidate whose picture appeared upon the face of the card, and the request that the other eight names be numbered from 2 to 9 inclusive. In this way each individual's campaign was made to contribute to the general strength of the entire ticket and the votes cast for any candidate who might be defeated would assist in the election of some other charter candidate.

Under this system it was not necessary to ask the candidates not to accept the indorsement of the Republican organization. The Republican organization could not campaign for one or two of the charter candidates without campaigning for all. This was of great importance as six of the nominees of the Charter Committee were Republicans in national politics, and at least two of them would have been acceptable to the Republican organization. If these two had been indorsed by the Republican organization, it would have been possible for that organization to have claimed that it had won the election as these two together with the three elected by the Republican organization would have constituted a majority of council.

As soon as the names of the candidates were announced, the City Charter Committee circulated petitions for their nomination and in a few days secured the necessary signatures. This was the first test of the ward and precinct organization that had been created, and it was so successful as to create a feeling of encouragement.

Efforts were made immediately to line up the newspapers in support of

the charter candidates, and the final result was that the *Cincinnati Post* (Ind. Dem.) endorsed nine of the candidates, the *Cincinnati Enquirer* (Dem.) endorsed six, the *Commercial Tribune* (Rep.) endorsed five, and the *Times-Star* (Rep.) endorsed four. The newspapers opened their columns to the Charter Committee with great freedom. A corps of speakers was secured and during the last thirty days of the campaign, the Charter Committee secured an average of ten columns of newspaper publicity per day in the four newspapers. As the campaign got in full swing, more and more of the Republicans swung into the independent column and came forward to support the Charter candidates.

The actual campaign was opened on September 5, 1925 by arranging a charter day at Chester Park, one of the amusement parks in Cincinnati. All of the candidates were presented to the public and spoke a few words. The keynote of the campaign was sounded, "Give the Charter a Chance—Elect Its Friends."

#### POLITICAL OPPONENTS WAKE UP

Up to this time the Republican organization had been rather quiescent. It now became active, announced the opening of its campaign, and indorsed six candidates. Its decision on this point was directly contrary to the decision of the Charter Committee. The Charter Committee as previously explained had indorsed nine candidates and had decided not to recommend the order of their preference, but to leave the question of preference to the choice of the individual voter. The Republican organization decided to concentrate its strength upon six candidates and to district the city among these candidates and to support different candidates as first choices in

different districts. The intention was to appeal to the spirit of ward representation and secure the support of the groups opposed to election at large. The results of the campaign showed that the decision of the Charter Committee was the wiser. The Republicans resented the effort of the Republican organization to dictate the order of their preference in voting, and in some instances this resentment caused the voter to cast his ballot for the charter group, whereas had he been permitted to select his own preference within the group of Republican candidates he would have supported the Republican ticket. This method of campaign also had another disastrous effect upon the Republican ticket. As the fight got hotter and the Republican nominees saw that the machine could not assure the victory of all six candidates, they commenced to fight among themselves. Friends of Republican candidates sought first choice votes in districts that had been apportioned to other Republican candidates. The cry began to go up that favoritism had been practiced and that some Republican candidates were being double crossed. As a result while the nine charter candidates were waging a united battle against the opposition, the Republican candidates were spending part of their energy fighting each other for first choice votes. There can be no question that the method of campaigning adopted by the City Charter Committee worked more harmoniously and efficiently than the method adopted by the Republican organization.

Six of the nine candidates nominated by the City Charter Committee were Republicans, and three Democrats. Of those elected, four were Republicans and two were Democrats. On the first count 76,405 first choice votes were cast for the charter candidates

and 33,304 for the Republican organization candidates. This represented practically identically the same percentage of votes as the vote carrying the city charter in 1924, proving that the spirit of that campaign had been carried over the year. Of 10,021 votes cast for the independent candidates, two-thirds were transferred to charter candidates on the second choice. The ninth place was a very close fight, Cecil Gamble, one of the charter candidates, being defeated by Mr. Lackmann by the close margin of 77 votes on a total quota of 11,974. The charter group was sorry to lose Mr. Gamble, but truth compels the admission that proportional representation was justified in the selection of three Republican organization candidates and six charter candidates, rather than of two Republicans and seven charter candidates.

#### THE MERITS OF P. R.

In the opinion of the writer, proportional representation justified itself in the Cincinnati election. It permitted the citizens to think of candidates as individuals and not as units in a block. Practically, it resulted in the general election being both a primary and a general election and had the same effect as a law that would forbid any individual voting at the general election who did not vote at the primary. It is perfectly true that had the election been held under the old system of voting for two blocks of nine candidates each, the Charter Committee with its vote of 76,000 against 33,000 would have elected all nine of its candidates. However, this result would not have followed had it been necessary to conduct the campaign for a group of nine individuals. The four newspapers in Cincinnati could not agree upon which candidates of the Charter Committee they should support. Each

paper selected a somewhat different group. Had it been necessary in order to secure their endorsement that they accept all nine candidates, the campaign would have been conducted with the support of only one newspaper instead of the support of all four newspapers. It was impossible for any newspaper to oppose the Charter group as a whole by reason of dislike for any one or more candidates. The newspapers were called upon to support individuals and not blocks of candidates and for the first time in a political election in Cincinnati the public studied the record, character and ability of individual candidates and was not misled into voting for "birds" rather than for men. This, in the writer's opinion, constituted the great advantage of proportional representation in the Cincinnati municipal election. It broke the solidarity of group government and placed the decision where it should be placed, upon the fitness of the particular individual candidates.

The most dramatic event was the culmination of the campaign to get out the registration. On October 1, and October 8, the first two days of registration, fewer than 70,000 voters registered. An intensive campaign was conducted to get out the registration on October 16, and 17, the last two days. Ward and precinct workers were aroused. Slips of paper urging the duty of registering were distributed in all the retail stores where co-operation could be enlisted. Slips were delivered at homes by insurance solicitors as well as by salesmen of installment houses. On Friday October 16, it rained steadily all day long, and gloom encircled the charter headquarters. This gloom was broken when the astounding total of the day's registration, nearly 30,000 was disclosed. On Saturday October 17, the

registration was nearly 40,000, bringing the total registration up to 139,000, or 14,000 more than the registration in the city of Cleveland.

#### THE DAY OF ELECTION

The election machinery of the state of Ohio is bi-partizan and the board of elections consists of two Republicans and two Democrats. The City Charter Committee had no authority to appoint either witnesses or challengers at the polls. Recourse was had to another provision of the state law which permitted a committee advocating or opposing an issue to appoint witnesses and challengers. A committee, consisting of three friends of the City Charter movement, filed its application with the board of elections asking to be recognized as a committee, favoring a constitutional amendment which was to be voted upon at the same election. This committee was recognized by the board of elections and thereupon obtained the right to representation at the polls. It was upon credentials signed by this committee that the witnesses and challengers of the City Charter Committee were admitted to the polls.

The City Charter Committee headquarters were busy the evening before election and during election day straightening out disputes that arose over the rights of these witnesses and challengers. Automobiles were kept available and as each complaint came in, the board of elections was called, a ruling obtained and an automobile sent to the precinct involved, carrying a representative of the Charter Committee and a policeman with instructions from the board of elections. There are 482 precincts in the city and the Charter Committee had 934 men and 1350 women working on election day, so that each precinct was well covered. The board of elections, both



the Republicans and the Democrats, were eminently fair. Through the courtesy of the two Democratic representatives on the board, William Leonard and Supply Butterfield, the City Charter Committee was permitted to select twenty-five of the one hundred clerks appointed to count the ballots at the central counting place.

#### THE COUNT, PROLONGED BUT ACCURATE

For several weeks before the election, arrangements for the count were discussed by the board of election and it was finally agreed that the south portion of Music Hall be rented. Under the charter amendment, the ballot boxes were to be sealed at the precincts and sent in to a central counting place. Thirty taxicabs were engaged by the board of elections, and thirty routes laid out for these taxis to collect the ballot boxes from the 482 precincts and bring them to Music Hall. Each box was sealed with a strip of paper signed by the election officials, and a record of the number of ballots was delivered with the box. On each taxi two policemen were placed. The City Charter Committee secured thirty motorcycle detectives and gave to each one the route of a taxicab, with instructions to follow the taxicab from the moment it started to collect ballot boxes until it delivered them at Music Hall. In this way, the ballots were watched all day by the challengers in the 482 precincts, all through the streets in transit to Music Hall by the motorcycle detectives, and all through the count at Music Hall by the twenty-five clerks appointed by the Democratic members of the board of elections, upon nomination of the Charter Committee.

The election count was long drawn out but accurate. There is no question whatever that with the experience gained, the count can be completed in

less than one-third of the time in 1927. In the next election, arrangements should be made for the employment of skilled clerks, and these clerks should work in six hour shifts, thus avoiding all the delay and confusion of adjournments for meals and sleep. Sufficient skilled men could be borrowed from the banks of the city for this purpose, and there is no necessity of requiring the selection on the basis of national politics. If the board of elections should be unwilling to cooperate in such a movement, the results can probably be secured by an amendment to the city charter placing the selection of these clerks in the hands of the city officials.

#### RESULTS

Only two of the candidates, Judge Edward T. Dixon and Murray Season-good were elected on the first count. Both candidates received tremendous surpluses and these surpluses assisted in the election of two other charter candidates, Tylor Field and Charles O. Rose, before the Republican organization succeeded in electing its first councilman, Fred Schneller. The sixth and eighth councilmen elected were charter candidates, Judge Stanley Matthews and Julius Luchsinger, and the seventh and ninth councilmen elected were candidates of the Republican organization, Martin Daly and Charles Lackmann.

Immediately after the election, the six charter councilmen elect had held a meeting and had started to investigate candidates for city manager. Representatives had been sent to the National Municipal League conference in Pittsburgh and to the meeting of the City Managers' Association in Grand Rapids. The choice finally fell upon Col. C. O. Sherrill, director of parks and public buildings in Washington, D. C., and formerly aide-de-

camp to Presidents Harding and Coolidge.

Murray Seasongood was selected as mayor and inducted into office on January 1. Mr. Seasongood had been one of the early supporters of the entire charter movement and had contributed to the campaign for the charter and for the election of council. The selection of Mr. Seasongood as mayor met with wide, popular approval.

The new city manager has won popular support and the commendation of the newspapers, for his skillful handling of municipal problems during the first months of his term of office. Very few employees have been dis-

placed, and the word has gone around that all employees that are efficient will be retained. This of itself has produced a better morale among the city employees and their work is being handled more efficiently.

It is too early to predict ultimate success, but the results so far achieved encourage the workers to believe that a new day has dawned in Cincinnati, and that under a clean, honest, and efficient government, the city will continue to move forward. It looks as if the dreams and the visions of the citizens who sought a better and a cleaner government were to be realized.

## WHAT A MODERN BUILDING CODE SHOULD CONTAIN

BY W. L. SNOOK

*Builder and Member Santa Barbara Architectural Advisory Committee*

*This article is at once a guide to those drafting new ordinances and a means for checking up the adequacy of present codes. :: ::*

AN understanding of the proper contents of a building code cannot be attained without a preliminary discussion of the methods and policies to be followed by a municipality in drafting such a measure, enforcing it and making future inclusions of new developments in design, material or practice.

A modern building code and the enforcement policy of the building department should be sponsored by a commission of citizens who have the confidence and respect of the public, as well as experience in some particular phase of the building industry. The personnel should include men individually qualified as follows:

1. A man intimately acquainted with building-finance; preferably the secretary of a building and loan association or the building loan or trust officer of a bank.
2. An owner-manager of one or more large buildings.
3. A fire insurance expert.
4. A representative of the fire department; either the chief, fire marshall or fire prevention officer, depending on the local organization.
5. A practicing structural engineer.
6. An architect.
7. An attorney.

8. A member of the city planning commission.
9. A member of the city council.
10. A representative of the builders' exchange or associated general contractors.
11. A representative of the allied building trades council.
12. A representative of the health department.
13. Several citizens who are recognized by the community as being open-minded, fair and possessed of practical common sense.
14. The chief enforcing officer of the building code (to act as the executive secretary).
15. The city manager or the mayor (to be an ex-officio member).

Although this seems to be a large commission, it should be so in order fully to perform its duties which will be to formulate the policy of the building department, to act as a board of appeal, and to help the building department obtain the confidence and support of the council and public.

The executive officer should be a man of high ideals tempered with common sense, experienced in the practice of building construction, familiar with structural engineering and provided with ample time and opportunity to encourage better housing, architecture, and methods of construction. He can accomplish far more by leading and educating the builders than by driving them, although there always will be a few who will have to be driven.

#### WHAT SHOULD BE THE SCOPE OF THE CODE?

The control of the height and bulk of buildings is best cared for in a separate law covering the general question of zoning, but in the absence

of such a law the control must be provided in the building code.

Moreover, the time is coming when municipalities must realize that buildings of poor architectural design lower the value of adjoining property. In the future we shall adopt the ways of European cities and control the street façades of buildings, at least to the extent of prohibiting the hideous and incongruous so abundant in some of our older cities.

Reconstruction after the earthquake gave Santa Barbara an opportunity to demonstrate the advantages of control over the aesthetic phase of building. Through the efforts of the architectural board of review, Calle del Estado, once an unpleasant hodge-podge of ugly store fronts, is now an unusually beautiful thoroughfare recalling the romantic heritage of the days of the Missions and the Spanish pioneers.

An important question to be decided in considering the necessary contents of a building code deals with the inclusion or omission of regulation of those phases which are not primarily matters of health and safety, but nevertheless are of vital concern to public welfare.

The following are typical matters to be considered in connection with public welfare.

1. Unsightly shacks, rat infested sheds, highly inflammable dwellings.
2. Poor or thin plastering.
3. Weather-proof qualities of roofs.
4. Recognition and use of the specifications and labels of the Underwriters' Laboratory pertaining to the protection of Openings.

In regard to the latter, it is of interest to note that the owner can not get reduced insurance rates until he protects his exposed openings with



equipment bearing the Underwriters' Label.

#### SPECULATION BUILDERS AND FLY-BY-NIGHT CONTRACTORS

Some authorities will appreciate that public welfare is as essential a police power as public safety; especially will those who have had experience in rapidly growing communities where many speculative builders and "fly-by-night" contractors collect lifetime savings in exchange for poor workmanship and material and then calmly inform the victim that "there is nothing that can be done about it."

The difference between a short-weight merchant and a short-weight builder is that between a petty thief and a wholesale thief: the first is liable to jail, but unless the code protects the public against poor building practice, the other is merely a too shrewd business man, left at liberty to impose on the credulous and discredit the fair price asked by the legitimate builder for good workmanship and materials.

Where homes are built as investments and retained for long terms by their original owners, the foregoing matters are not so pertinent as in communities where a very large portion of the buildings are erected with the intention of an early sale. Such buildings are nothing more than articles of commerce and, as such, are subject to all the rules necessary to establish honest dealing and protection for the community.

#### THE CONTENTS OF THE CODE

After taking into consideration the foregoing, we are now ready to discuss the contents proper of a building code as divided into subdivisions or chapters.

#### I. ORGANIZATION, OPERATION AND RECORDS OF THE BUILDING DEPARTMENT SHOULD PROVIDE

##### (a) Personnel.

A chief enforcement officer.

A corps of qualified assistants: structural engineer, plan checkers, field inspectors, mechanical engineer, plumbing inspectors, and electrical inspectors.

##### (b) Permits.

Under this heading is placed the control of the design of buildings prior to the actual construction activities. The requirements should provide that adequate plans be filed, together with computations and stress diagrams whenever needed, and the approval of the department indorsed thereon. Plans of larger buildings and those in which people assemble should be required to be prepared by qualified men. (Our courts and laws recognize the need for qualified men in medicine, dentistry, law, pharmacy and teaching, but few people realize the obvious need for specialized training in the field of building design. After we have a few more catastrophes and kill a few more hundreds of innocent people, the recognition of the engineering profession will come.)

Following compliance with the foregoing, the permit should be issued and the owner required to erect the building as shown on his approved plans. These plans, endorsed by the department, must be kept on the job and available to the field inspectors, who can then enforce the code simply by requiring that the plans be complied with. In case the owner desires subsequent alterations he must obtain further approval.

Fees. The use of the building

department in the collection of taxes under the guise of building permit fees is very common though unfair and unwise. The man planning improvements which will increase the taxable property in a community as well as enhance the value of adjoining property should not be required to pay a special tax in advance.

The expenses of the building department should be raised by general taxes, just as are those of the police or fire departments, and the public should be encouraged to consult and take advantage of the services of the building department.

If the building permit fee system is used, the fee should be large enough to pay the expenses of the entire department and any surplus should be returned to the public in more and better trained inspectors, instead of being used for general funds.

(c) Plan Checking.

This is the careful analysis and checking of plans by the structural engineer and plan checkers, before the construction of the building is started. No permits should be issued until this has been done, and if the checking shows the plans to be either incorrect or incomplete, they should be corrected before the permit is issued. (A competent checking of engineering features can be provided by the building department, at a net saving to the community, due to the volume of work handled and experience acquired.)

(d) Field Inspection.

The inspection of all buildings during erection. Smaller buildings are best covered by a combination patrol and call inspection which are most effective at the following stated times.

1. After excavation for foundation trenches and delivery of foundation material.
2. After the wooden frame is in place and before interior lathing is applied.
3. After completion.

The owners of larger buildings, and particularly those buildings in which the public is to assemble, should be required to maintain an inspector, responsible and satisfactory to the building department, during the erection of the building.

(e) Authority.

The building department must be given authority as follows:

To stop erection of a building, any portion of which does not comply with the code.

To compel the completion or removal of partially erected buildings.

To compel the repair or removal of unsafe or dangerous buildings.

To enter premises for the purpose of making inspections.

To refer the questions of the strength or fire-resisting qualities of a new material or method to a sub-committee of the commission for examination and test, and then to issue or refuse permits according to their findings.

(f) Records.

The records required to be kept by the building department should include:

Card index record filed by streets and street numbers containing:

A reference to the application by means of its serial number.

A general description of the building by class of construction, height, length, breadth, number of stories, number of rooms.

The serial number of electrical permits.

The serial number of plumbing permits.

The names, addresses and telephone numbers of owners and contractors.

Dated reports of inspections and identity of the inspector making them.

Dates of application and permit.

A loose leaf typewritten ledger showing the serial number of the permit, dates, legal description of the property, owner's names, valuation, and other information needed to make a report to the auditor and assessor. (Carbon copies of these make admirable reports at a minimum of expense.)

## II. CLASSES OF BUILDINGS

For the sake of brevity and convenience, the various types of buildings should be divided into three classes, such as fireproof, semi-fireproof, and wooden frame. These three may be subdivided into many divisions to give an opportunity for further regulations pertaining to the use, height and area. However, with the exception of those cities having large manufacturing, shipping and wholesale districts, further detail in classification is not of advantage.

A simpler method is to require additional protection to a major class by defining the uses to which the building may be put and in limiting the height to which it may be erected.

**Fireproof.** A building having a complete framework of fireproofed steel or reinforced concrete, fireproof floors and no wooden structural members. No limit to height, area or location except as determined by the use.

**Semi-Fireproof.** Exterior walls of self-supporting masonry and combustible floors. Height limit, six stories if interior framework is of

fireproof columns and girders, without such a framework, four stories. Area limited according to location and installation of automatic sprinkler systems.

**Wooden Frame.** All other buildings not included in the first two classes. Height limit, if plastered interior and exterior on metal lath, three stories, otherwise two. Maximum area 7500 square feet unless separated by firewalls. Exterior walls must be kept four feet away from private lot lines. Wooden exterior coverings are prohibited in closely built-up sections, such as the usual apartment district.

These three classifications can be made to answer all conditions, or each class may be subdivided into from three to five sub-classes, indicated by a letter for the main classification and a number for the sub-classification.

## III. FIRE DISTRICTS

Three classes of fire-districts are advisable. Such a plan will make possible the protection of the commercial district by means of a surrounding district in which the more inflammable types of buildings can be prohibited. This method will relieve the unfairness to property owners close to borderlines when only two classes of districts are employed.

In the first fire district, all exposed vertical openings must be protected with automatically closing fire doors, or shutters, or with metal frames and wire glass.

## IV. SPECIAL USE BUILDINGS

This chapter should contain the regulations covering theatres, churches, schools, public garages, auto service buildings, storage and handling of liquid fuels, storage of foodstuffs, hospitals, reviewing stands and grand-



stands, cleaning and dyeing establishments.

**Theatres.** Provide for special permits to operate, exits, aisles, stairs, ramps, exit courts, foyer space, stage fire protection, smoke vents, attendance of fireman during performances, other uses of the building, construction of dressing rooms and their location, a resilient stage floor, construction of the fly galleries and pin rails, emergency exit lights, location and nature of heating apparatus, location and separation of storage rooms and workshops, and the construction of the projection booth.

**Churches.** Large churches should be fireproof buildings. All churches should have aisles and exits similar to theatres. Sunday schools should be provided with fireproof halls and corridors just the same as common schools. Public schools should be limited to two stories and every class room should have two means of egress. Corridors and stairways should be fireproof. All toilet rooms should have good ventilation and non-absorbent walls and floors.

**Public Garages and auto repair shops** should be semi-fireproof, and if over one story or having basement, they should be fireproof. Such buildings should be equipped with "No smoking" signs, means of ventilation, separate flame or torch rooms, and fire-fighting equipment such as sand barrels and fire extinguishers.

**Auto Service buildings** should be either fireproof, semi-fireproof or all metal.

**Liquid Fuels** should be confined in tanks protected by fire walls of reinforced concrete, enclosing sufficient space to contain the oil in case the tank be destroyed or set on fire. This space should be at least 25

per cent greater than the tank, due to boiling and other disturbances which occur when oil tanks are afire. Gasoline and similar fuels handled for auto supply or for cleaning purposes should be kept in vented tanks, buried four feet under ground, and all pumps must be of a nature that will not subject the tank to pressure.

**Cleaning and Dyeing Plants** should have all rooms in which inflammable liquids are handled constructed of fireproof walls and ceilings, and equipped to smother out any fire by means of steam jets.

**Storage of Foodstuffs** should be permitted only in rat- and vermin-proof rooms having sanitary floors.

**Hospitals** more than one story high should be fireproof and provided with two means of egress through fireproof corridors and stairways. Hospitals of one story may be permitted if they are constructed of wooden frame walls, covered with metal lath and cement plaster, and if all heating plants or other sources of fire danger are separated from the main buildings.

**Review Stands and Grandstands.** Since these structures will have to withstand the stresses imposed upon them by the simultaneous movement of a large mass of people, their construction should be specified in detail and with due consideration given: (1) To the tendency of the erectors to follow the unreliable practice of nailing instead of using direct bearings; (2) to the desire to cut as little as possible of the rented lumber often used where the work is temporary.

#### V. STRUCTURAL ENGINEERING

Structural engineering divides itself into three parts as follows:

(a) Structural Steel.

The recommended standard specifications of the American Institute of Steel Construction (as they intend to amend them shortly) is ideal for this purpose and is being adopted by many cities and is approved by the United States bureau of standards.

(b) Reinforced Concrete.

Reinforced concrete should follow the latest recommendations of the "Joint Committee," as to design and stresses allowed. In addition a requirement should be inserted for the testing of samples of the pouring, with a penalty of reduction in height and loading allowances of the building if any of the samples show a poor concrete.

The batch of concrete should be required to be in the mixer for at least one minute with a minimum water content.

These specifications are found in detail in the code recommended by the Portland Cement Association.

(c) General Engineering.

In this should be incorporated detailed specifications for:

1. All other acceptable materials.
2. Excavations adjoining streets and buildings.
3. Bearing value of foundation sites.
4. All kinds of foundations, retaining walls and their shapes.
5. Live load requirements.
6. Wind and lateral bracing.
7. Design of roof trusses.

The greatest opportunity for improvement over the usual code is in the live load requirement. The past practice has been to design for live loads so as to secure stiff floor systems capable of sustaining heavy concentrated loads. This is as it should be, but the fault has been that this re-

quirement has been carried into columns and girders where it is not needed, as it is self-evident that an entire room will never be occupied by heavy objects (except in factories, warehouses, etc.), and that much of the floor space will always be unoccupied. In addition to the wasted material the former practice results in foundations that are not proportioned to the actual loads. This causes unequal settlement and exaggerated footings under the interior columns where they are the least needed in resisting earthquake stresses.

*The most interesting and important lesson from the Santa Barbara earthquake experience shows that buildings must be laterally braced and the various parts tied together to form as cohesive a structure as possible. The usual practice is to accept the dead weight of walls as being lateral support. Nothing could be more erroneous when viewed in the light of our experience.*

The true measure of a building's lateral bracing requirement is in a *per cent of its weight*. However, in the case of light weight buildings, such as large factory or warehouse buildings with a steel or wooden frame and walls of metal, the wind bracing need be the only consideration, the amount required being based upon the area exposed to the wind.

In addition to the foregoing requirements there should be included rigid specifications for the quality of brick, brick-mortar and workmanship to be employed in the construction of masonry walls. To give masonry walls the tensile qualities and bonding for joist anchors that these buildings need, reinforced concrete bondstones must be provided at the floor and roof lines.

#### VI. GENERAL PROVISIONS

Under this heading are grouped the regulations not of an engineering nature

that are common to several types of buildings.

The following is an enumeration of them with brief comments:

- (a) Plastering.
  1. Where required.
  2. Material for base.
    - Metal lath.
    - Plasterboard.
    - Wood lath.
  3. For exterior.
  4. For interior.
  5. For fireproofing structural members.
  6. For halls and stair wells.
  7. For auto storage rooms in dwellings, apartments and hotels.
- (b) Use of sub-sidewalk, space and openings in sidewalks. Reserve space for ornamental light poles and their conduits, incidental pipes for water, gas and sewage. Require openings to be near the curb in order to avoid unnecessary interference with pedestrians.
- (c) Skylights.
 

Require metal frames and wire glass.
- (d) Cornices, belt courses and balconies.
 

Control the amount of projection and the fireproof qualities.
- (e) Roof Drainage.
 

Carry to curb under sidewalk in commercial districts and where the buildings occupy a large proportion of the lot.
- (f) Marquise, awnings and arcades.
 

State clearance above sidewalk; require architectural merit and special permits for permanent construction.
- (g) Mezzanine floors.
 

Describe permissible extent and construction.
- (h) Ventilation of toilet rooms in stores, etc.

- (i) Roof signs.
 

Specify galvanized metal, maximum height and wind resistance.
- (j) Tents and tent houses.
 

Require special permit from committee or council.
- (k) Electrical installations.
 

Require room for meters, switches, etc.
- (l) Mansard roofs.
 

Describe when they shall be constructed as walls.
- (m) Roof tanks.
 

Require anchorage and fireproof support.
- (n) Parapet fire walls.
 

Prohibit on street fronts, unless between columns. Give minimum and maximum heights on sides and rear of buildings.
- (o) Elevator shafts, chutes and other vertical openings.
 

Must have fireproof walls and linings.
- (p) Towers and spires.
 

Require adequate anchorage and lateral strength.
- (q) Roof tile.
 

Require secure fastenings.

#### VII. STAIRS, FIRE ESCAPES, FIRE-FIGHTING EQUIPMENT

Stairs. Efficient width 42 inches. Number required to be proportioned according to the type of construction, size and use of the building with a larger area per stairway permitted in larger buildings.

Encourage fireproof stairways in lieu of fire escapes. Require all fire escapes to be equipped to reach the ground by means of vertical-sliding counter-weighted ladders.

Arrange stairways and fire escapes to provide two means of egress for all occupants with at least two stairs reaching the ground level, in all buildings in which large numbers of people work, such as light manufacturing,



hotels and apartment houses, except very small area fireproof hotels and apartment houses.

The typical iron fire escape on the exterior of a building was adopted as an expedient for a building that had been erected without intelligent regard for means of exit in case of panic or fire, and should be discarded in modern buildings because they are dangerous to use, have a high depreciation and are inadequate for the escape of invalid, infirm or timid people.

Allow recessed balconies with fireproof floors, steel stairs not less than 30 inches wide, and all openings to the interior protected by means of metal frames and wire glass, as an alternate that will be an effective fire escape.

Dry standpipes should be located and arranged so that the fire department can use them to protect the building against adjoining fires as well as a fire within the building itself.

#### VIII. HEATING AND SMOKE APPLIANCES

Fireplaces, chimneys, smoke stacks and furnaces should be regulated. Their requirements are so well known that further comment is unnecessary in this article.

#### IX. BUILDING EQUIPMENT

This chapter should cover the regulation of elevators, steam boilers and

similar matters unless they are adequately regulated by the state.

#### X AND XI. PLUMBING; ELECTRICAL WORK

A complete code will include the regulation of plumbing and electrical installations.

#### XII. VENTILATION AND HOUSING

In the absence of state regulations governing ventilation, yards, courts, light and air and kindred housing regulations, such can be included in the building code or placed in a housing code.

#### XIII. THE PROTECTION OF WORKMEN

By means of barricades around open well holes, scaffold specifications, hoisting elevator protection, temporary toilets and similar measures, should be incorporated to enable the building department and other local agencies to enforce them.

#### XIV. THE USE OF ADJOINING STREETS

Storage and handling of building materials as well as the protection of pedestrians desiring to pass the building site, will have to be controlled.

The lack of good pedestrian facilities in front of a building in course of construction will often work a serious hardship on the owner of adjoining business.

## RECENT BOOKS AND REPORTS

**THE PRESIDENTIAL PRIMARY.** By Louise Overacker. New York: The MacMillan Co., 1926. Pp. 308.

In the brief space of 207 pages—the remainder of the book is given over to an appendix the contents of which will be discussed later—and in a style that admirably combines brevity, clarity, and interest, Professor Overacker has analyzed and evaluated the presidential primary in the twenty-six states which up to the present time have taken some action to control their delegates in the national conventions. This is a book which ought to be welcomed by any student of nominating methods, or of the efforts to establish popular control of government, for, as the author herself says, “in its broadest aspect the presidential primary has been part of the general movement for more democratic control of American government”. It ought in particular to be welcomed by those (and we believe they are many) who agree that the presidential nominating process is “a political ‘one hoss shay’ which has completely broken down.”

The book is divided into four parts. Part I—being an introduction to the whole subject, outlines the problem and the method of attack and concludes with a brief history of the presidential primary movement in the states. In Part II—State Laws and Their Operation—the time of the primary, methods of proposing candidates and of electing delegates, control of the action of the convention, the form of the ballot and the effect which various forms have, etc., are discussed in detail. Part III—The Effect of the Primaries—is devoted to consideration of issues, technique, party organization, expense of the primaries, etc. Part IV—Possible Development of the Presidential Primary—is perhaps the most interesting section of the book for here we get a consideration of the possibility of further control of the presidential primary through state action, the proposals for a national presidential primary, and the outlook for national action, as well as the author's conclusions. Stated in brief form, national action is considered improbable because of the difficulty involved in passing the necessary constitutional amendment, the difficulty of securing agreement to a primary plan, and the

reluctance to permitting the national government to take over the functions of election, but “practically the same end may be obtained through state action if substantial uniformity of certain important features is secured”. How “substantial uniformity” of these “certain important features” is to be secured is carefully analyzed by Professor Overacker.

In the introductory chapter, the author states that “if there be anything unique in the method used in the preparation of this study it lies in the extensive use of newspaper material.” It is believed that this method—the support of every statement by illustrations drawn from actual practice—has much to do with producing the quality that sustains interest throughout. It should also be mentioned that not the least interesting part of the book is the appendix—containing a Calendar of Presidential Primaries, A Digest of Presidential Primary Laws, Statistical Tables, and Typical Ballots, in addition to the Bibliography. A word might also be added about the excellence of the type and of the form of the book, both of which contribute much to its readable quality.

This is by far the most comprehensive study which has been made of the presidential primary. It not only offers much material not previously available at all but brings together in one compact volume much that was not readily available.

HELEN M. ROCCA.

Washington, D. C.



**DOCUMENTS ILLUSTRATIVE OF AMERICAN MUNICIPAL GOVERNMENT.** By Thomas Harrison Reed and Paul Webbink. New York: The Century Company. 1926. Pp. 609.

Teachers of municipal government will find in this collection of documents a useful source book illustrative of the development of municipal organization. The editors have brought together within the compass of one volume selections from constitutions, laws, charters, cases, and official reports, which set forth what, in their opinion, is most significant and typical in the changing structure of our municipal institutions.

The materials are grouped under thirteen main topics. Selections under the first two relate to

"The Beginnings of City Government in the United States" and the "Development of City Government in the United States during the Century Succeeding the American Revolution." Here we find included such selections as the Nicolls and Dongan charters of New York, the 1835 Report on Municipal Corporations in England and Wales, and extracts from city charters, of the period between 1789 to 1873, of such cities as Philadelphia, Baltimore, Boston, Chicago, New York, and San Francisco. Documents to illustrate the topics "The Growth of the Power of the Mayor" and "The Weak Mayor Plan of Government" include the New York charters of 1870, 1873, and 1901, extracts from the reports of the Boston Charter Commission and the Boston Finance Commission, the charter of Ann Arbor, Michigan, and extracts from the general borough law of Pennsylvania. Twenty-one documents listed under the subject, "Municipal Rights and Liabilities," and including state constitutional provisions, state laws, committee reports, judicial decisions, illustrate the plenary power of legislatures to deal with municipal affairs, unsatisfactory relations existing between cities and states, the doctrine of the inherent right of local self-government, restrictions on the chartering of cities by special legislation, classification of cities for legislative purposes, home rule clauses in state constitutions, home rule enabling acts, the extent of home rule, and liability for corporate acts. A section that is timely and one to which the editors devote considerable space is the one on "The Government of Metropolitan Areas." The documents presented here illustrate both foreign efforts and American attempts to cope with this problem. The remaining documents contained in the volume illustrate the subjects, "Municipal Reform Organizations," "The Commission Plan of Government," "The Manager Plan," "The Development of Nominating and Election Machinery," "Proportional Representation," "Initiative, Referendum, and Recall," and "How the City Conducts its Business."

Opinions of various authors about the problems of municipal government are usually readily available. Acquainting the student with the use of source materials is admittedly an indispensable part of the study of municipal government. But hitherto source materials have been too inaccessible to the student, and, consequently, there has been a tendency to

neglect them. The editors have performed a valuable service for teachers and students of municipal government in bringing together such representative and inaccessible materials. The volume is not a comprehensive book of readings of the sort that aims to supply the instructor with a complete set of readings for a course in municipal government. But it is inconceivable that any book of readings could supply such a service. The editors have not attempted to bring in many materials to illustrate actual municipal administration. More attention might have been paid to the subjects of municipal finance and civil service. Also there is no attempt to illustrate the subjects of zoning and city planning. In conclusion, therefore, the reviewer feels that such a useful set of readings covering the changing structure of municipal institutions suggests the need for a second set of readings covering the field of actual municipal administration.

MARTIN L. FAUST.

University of Pittsburgh.



THE USAGES OF THE AMERICAN CONSTITUTION.  
By Herbert W. Horwill. Oxford: Oxford University Press. 1925. Pp. 251.

Although written primarily for an English public Mr. Horwill's book deserves and no doubt will find a much larger circle of readers on this side of the Atlantic. One may question his observation that "American research has largely ignored the part played by usage in the actual working of the Constitution."<sup>1</sup> The interpretation of this statement turns on the word "largely," but it cannot be denied that our writers have contented themselves hitherto with "incidental references to particular usages . . . scattered here and there in many books on American government."

Mr. Horwill's distinct contribution consists in defining the field as a whole and in dealing with a large number of our more important usages freshly and concisely, illustrating them with a fullness supplied by long residence and by close study and observation. His comment is broad and judicious, not untouched at times by a delightful irony,—as to the latter witness particularly his discussion of American "Titles of Honour" and the paragraph completing the book which latter is unsurpassed even in Montesquieu for all his Gascon origin.

So large is the range of usages covered that the



author is almost too modest in his disclaimer that he has not given "a complete and exhaustive account of the subject." It is true that apart from some striking references to national conventions he has not gone into party machinery and party rules but this field is by no means so largely covered by *unwritten law* as when Woodburn called attention to it in this connection. On the other hand he does discuss usages that have grown up in connection with the election of a president, "accidental" presidents, third presidential terms, the cabinet, cabinet and congress, appointments and removals, the power of the purse, the insistence upon residence of congressmen in the districts which they represent, and a number of miscellaneous usages. Three general chapters: "What is the American Constitution," "Changes in Constitutional Usage", and "The 'Safeguards' of the American Constitution" complete the work.

At numerous points, *e.g.*, in connection with "accidental" presidents, Mr. Horwill has succeeded in discovering and presenting significant historical facts not mentioned in American textbooks. The consequences resulting from the self-assertion of Tyler—"a preposterous country lawyer, one of the most bizarre figures that ever appeared on the stage of American politics"—are developed in a masterly manner, particularly those which occurred during the Wilson administration. Is it, however, certain that Wilson would have abandoned his trips to France if it had been necessary to hand over the administration of the government to Marshall during his absence? Nor does it seem likely that the arguments and conclusions presented in the book "will necessarily give a new turn to the discussion of the whole question of the American Constitution." The latter phrase is a "large order," to use a colloquialism, and Mr. Horwill is after all sufficiently orthodox in his comment. One possible exception may be noted in regard to the XVIIIth Amendment which is held to lie "altogether outside the province of a constitution." However we are so thoroughly involved in flaming controversy over prohibition that this contention, which Mr. Root presented unavailingly to the supreme court, will not add measurably to the conflagration.

Mr. Horwill's book is invaluable to higher officials, publicists and students of government. It should serve admirably both as a textbook for

advanced courses and as reference reading for elementary courses in colleges and universities. A word of praise is deserved by the publishers for the excellent format and clear large type of the book.

ROBERT C. BROOKS.

Swarthmore College.



CONFERENCES, COMMITTEES, CONVENTIONS, AND HOW TO RUN THEM. By Edward Eyre Hunt. New York: Harper and Brothers, 1925. Pp. XIV; 218. Illustrations.

No one who has struggled with the problem of running a conference or convention can fail to appreciate the wisdom of emphasizing, as Mr. Hunt has done in this volume, the necessity of careful planning, not only with respect to all the details that are involved in the preparations for such meetings but in the conduct of the conferences themselves.

This very readable volume is filled with detailed practical advice based on wide experience and it should prove helpful alike to the veteran convention secretary and to the novice. The latter facing his first convention will, if he studies the practical suggestions offered, avoid many pitfalls.

The book abounds so in details that mention can only be made of a few points. After stating the problem, it takes up in turn the steps necessary in planning the conference, securing attendance, and paving the way for real accomplishment. Next it discusses the technique of managing the meetings themselves and the duties of the various officers and particularly the secretaries. Problems of publicity, records, and follow up receive their due attention.

Special sections are devoted respectively to trade organization gatherings, conferences of religious and technical bodies and diplomatic conferences. These present problems which require special treatment that even the experienced secretary may be apt to overlook, and which are covered briefly but adequately.

For the novice there are included in the appendices selections from a number of conferences illustrating various forms of conference calls, agenda, work calendars, standing orders, minutes and reports.

Because it is the duty of a reviewer not merely to enumerate and praise, but sincerely to appraise the volume under consideration, the following observations are added:

The title is a trifle misleading, for there is really a dearth of references to committees,—the book in fact deals almost exclusively with large conferences and conventions.

In reading the volume, the non-governmental official is impressed and to some extent oppressed with the amount of space devoted to official conferences of various federal departments and commissions, until he begins to wonder if Washington is the only city where conferences are held and national conferences the only ones worth while. This overdose of bureaucracy is to some extent offset by the sections on trade conventions and technical societies, but the book closes with a note of officialdom in the chapter on diplomatic conferences.

This emphasis in all probability is an echo of the author's own wide experience, but it leaves the reader wishing for a more extensive treatment of unofficial meetings, for those that are given are truly helpful to the mere civilian.

Notwithstanding these faults, and what book is without some, the volume is intensely practical and should find a place in the libraries of those whose duty it is to plan or guide the numerous conferences through which public opinion is so frequently molded. In the conception of the secretary's rôle, in the emphasis on careful planning, and the development of a group consciousness, and in the necessity for ending a conference on a note of agreement and achievement, the author is on firm ground, and it is hoped that his book will prove to many as stimulating as it has to this reviewer.

WAYNE D. HEYDECKER.



**The Report of the Baltimore Board of Zoning Appeals for 1925.**—The Second Annual Report of the Board of Zoning Appeals—the first to be printed—is a document of general interest. In many ways the zoning of Baltimore is unique; but its peculiarities only serve to bring out the more clearly the principles of zoning in this country and the zoning methods which are regarded by our courts with favor or hostility. The history of zoning in Baltimore is therefore of interest to those concerned with zoning all over the country. This report gives that history as an introduction to the account of the occurrences of 1925. The report also shows the effects of zoning in its various phases in Baltimore, with a fullness and accuracy of detail seldom to be found in such documents. Both as an account

of a local situation of general interest and as an exemplification of causes and effects at work everywhere the report will be of value to the planners and zoners of the United States.

FRANK B. WILLIAMS.



**The 1925 Annual Report of the Tax Supervising and Conservation Commission of Multnomah County, Oregon.**—This commission, appointed by the governor, is charged with reviewing annually the budgets and proposed tax levies of Multnomah County and the important governmental bodies within it, including the city of Oregon, School District No. 1, the Port of Oregon, the Dock Commission, water and drainage districts, towns, and minor school districts.

This report records the actions which the commission took in reviewing, adjusting, and reducing the various requested appropriations and tax levies submitted to it by the various governments. Much other financial information is concisely and adequately presented. Notable are the sections dealing with the public debt and the personnel costs of the larger governmental jurisdictions. For the citizen who is supposed to read as he runs, there are diagrams which show how the dollar he so cheerfully tosses into the lap of the tax gatherer is divided among the many that cast lots for it. Charts are presented which depict the trends of taxes, expenses and indebtedness.

The functioning of this Commission represents an interesting example of state control over local finances. The whole scheme would no doubt be decried by the doctrinaire "home ruler," but it would indicate that some of the "fathers" of this latter-day in the far flung reaches of our empire have not lost faith in the efficacy of "checks and balances." In any event the statements of both requesting officers and reviewing officers reflect dignity and reasonableness.

LEYTON E. CARTER.

Cleveland, Ohio.



**The 1925, Annual Reports of Westerly, Rhode Island.**—This document would indicate that in the matter of reporting its financial condition and financial operations, the town of Westerly has determined to turn over a new leaf. An accounting firm was employed "to prepare the annual report to be presented to the financial town meeting." . . . The report thus prepared

should satisfy the most skeptical of citizens it would appear—if indeed they peruse the 52 pages of fine type and the two score (more or less) financial statements and schedules.

A capital fund balance sheet is presented with detailed supporting schedules, also balance sheets for the sinking fund and other funds; a revenue receipts and total expense statement with supporting schedules; a condensed statement of income and operating expense and supporting schedules, the operation of appropriation accounts and statements showing various sorts of comparative financial data of Westerly and other cities follow.

In addition to the rather exhaustive financial report are the annual reports of the sinking fund

commission, director of public aid, board of water commissioners and board of highway commissioners. Of these the statement of the highway commissioners is perhaps most interesting. In addition to the usual "run-of-mine" statistics some of the problems and events, of the year are portrayed.

A municipal report dealing as it does with a multitude of activities close to the hearts and pocketbooks of people might be made an absorbing document—even to natives. Perhaps some day one will be conceived and executed in this spirit!

LEYTON E. CARTER.

Cleveland, Ohio.



# PUBLIC UTILITIES

EDITED BY JOHN BAUER

*Public Utility Consultant, New York City*

**Why Reproduction Cost?**—There are usually three general lines of argument presented in support of the reproduction cost of the property as the proper basis of valuation for utility rate-making:

- (1) That it is based upon established law,
- (2) That it is necessary for just treatment of investors,
- (3) That it furnishes the foundation for natural economic developments.

## I. IS IT SUPPORTED BY LAW?

The argument that reproduction cost is based upon established law, has little of substance to rest upon. The general rule is that a "fair return" must be allowed on the "fair value" of the property, and the considerations entering into the determination are stated in *Smyth v. Ames*<sup>1</sup> as quoted and discussed in the June number of the REVIEW. There is no express reference to reproduction cost as such. The items referred to are: Original cost of construction, the amount expended for permanent improvements, the amount and market values of capital stock and bonds, and the "present as compared with original cost of construction." This statement furnishes the foundation for the law as it stands today. It has been repeated and referred to almost innumerable times, and has been amplified only on such matters as depreciation, good-will, going value, and the effect of past losses and profits. Its only possible reference to reproduction cost is in the "present compared with the original cost of construction." At best, however, this is merely an element presented with others, but this may mean merely the total present cost, including the amount expended in permanent improvements, in addition to the cost of the original construction.

The supreme court has never said that "fair value" is to be determined by the reproduction cost, or that reproduction cost must be treated as a principal or dominant factor. On the contrary, it has said and decided that a company is not entitled to have its return based upon repro-

duction cost. Thus, in the recent Atlanta Gas case, it declared that "the refusal of the commission and of the lower court to hold that, for rate-making purposes, the physical properties of a utility must be valued at replacement cost, less depreciation, was clearly correct."<sup>2</sup>

In this case the railroad commission of Georgia had valued the properties installed prior to 1914 at actual cost, or at the cost at that date, and those constructed since 1914 at actual cost, and allowed in addition \$125,000 for appreciation in land values. The total valuation thus fixed amounted to \$5,250,000, compared with \$9,500,000 claimed by the company at reproduction cost. The rates based on the commission's valuation were sustained although the reproduction cost was given only slight weight in the total.

Search of all the supreme court cases dealing with rates, fails to reveal a single instance of rates being found confiscatory where a return of 6 per cent or 7 per cent was earned on the actual investment in the properties. While the language of the court in some cases stresses the reproduction cost factor, it is, at best, only a factor, and as in the Atlanta case would be given but slight weight in drawing a sharp distinction between valid and confiscatory rates.

If we consider what the supreme court has said and done, distinguishing *decisions* from *dicta*, there is no ground for the claim that reproduction cost has been established by law. There is reason, however, to believe that the legislatures of the states are free to prescribe such rate methods as will make regulation practicable and conserve the interest of the investors as well as the public.

## II. IS IT NECESSARY IN FAIRNESS TO INVESTORS?

The chief positive argument for reproduction cost is the necessity of treating investors in public utility properties fairly. This has come to be urged especially following the sharp increase in prices during and after the War. It is based on the idea that with the present higher price level,

<sup>1</sup>169 U. S. 466, 544.

<sup>2</sup>262 U. S. 625.

there has been a corresponding decrease in the value or purchasing power of the dollar. Consequently, reproduction cost would merely provide the value equivalent of the actual investment at the time the various parts of the property were installed. A return based on reproduction cost would thus have no greater purchasing power than a return on actual investment if prices had not risen.

The argument as thus stated sounds fair except for the special considerations which control in the field of public utilities. There is (1) the impossibility of maintaining effective regulation upon the reproduction cost basis, (2) financial instability is greatly promoted, (3) the financial structure of the companies make such a desired adjustment in return impossible, and (4) such adjustments were probably not expected by the investors.

We shall consider at this place only points (3) and (4), and shall treat the first two as direct objections to reproduction cost, and reasons for actual cost. We are now concerned only with the question of fairness to the investors and we may take the last question first, What were the expectations of the investors?

Fair present treatment of investors involves what they reasonably expected when they put their money into utility properties. Did they consider the return simply on the basis of their money capital, or did they have in mind the changing price level and looked for a corresponding adjustment in income? They did know that they would be limited in their earnings, but did they expect any modification because of changes in prices?

The answer, of course, is uncertain. Few people, however, consider the future changes in price level when they lay out capital for any particular purpose. Their calculations are based on the prospective business possibilities in terms of the then prices with little or no regard for probable future changes. If this is true, there is no imperative reason why increases in money return should be made after prices have risen. Certainly there would be objection if decreases were ordered after prices had fallen.

The chief point, however, in the fairness argument is that for the bulk of the actual investors no adjustment can be made in their return, whatever the changes in price level, upward or downward, except in the case of insolvency. The fact is that at least 75 per cent of the actual investment has been made on the

average through the issuance of bonds and preferred stock, which bear a fixed rate of interest or dividends on the par value. The returns are thus fixed contractually, and cannot be altered whatever adjustments in valuation may be made because of shifting prices.

Under reproduction cost, therefore, is it not clear that the adjustment to changing price level would be applied to the entire investment, while the adjustment in return would be applied to only 25 per cent of the actual investment? This means that 75 per cent would continue to get a fixed monetary return, while 25 per cent would be subject to a rate of change *four* times as great as the change in price level.

During rising prices the bondholders and preferred stockholders would continue to lose in purchasing power, notwithstanding the adjustment in the valuation, while the stockholders would get *four* times as much as required to offset the higher prices and would thus obtain highly unwarranted profits. Likewise, during falling prices, the bondholders and preferred stockholders would still get their contractual returns, in spite of higher purchasing power, while the common stock would incur a *four* fold reduction and thus suffer serious losses. What, then, is the merit of the fairness argument, when the bulk of the investors cannot possibly participate in the adjustment to changing prices, and when the rest either make inordinate gains or suffer corresponding losses?

### III. IS IT REQUIRED FOR PROPER ECONOMIC DEVELOPMENT?

Since reproduction cost merely furnishes a basis of change in the investment to correspond to the changing price level, it is considered the proper basis to prevent an otherwise unnatural economic development, compared with normal conditions if prices had not changed. The chief distortions thus referred to are: (1) the stimulation or retardation of the normal growth of business, and (2) the over or under supply of new capital.

As to the first point, the view is that if rates are not adjusted according to the change in price level, then the charges for service are relatively greater or less, hence the demand for service will be less or greater, than would have been the case if prices had not changed. This means the unbalancing of normal economic relationships. During rising or high prices, rates would be relatively too low and would

unduly stimulate the development of business, while during falling or low prices, rates would be too high and would retard the normal growth of business. Rates based upon reproduction cost would merely stabilize the relative charges for service and would prevent any distortion in utility developments through the change in price level.

The argument thus presented would be valid (a) if such an adjustment in return element were the controlling or an important factor in the rates, and (b) if it could be promptly made with changing prices. The whole argument exaggerates the weight of the return element included in the charges for service. Rates, however, provide not only for return to investors, but also for operating expenses and taxes. The latter constitute on the average at least 75 per cent of the total, leaving only 25 per cent for the return element. But operating expenses and taxes change automatically with prices, and are shown definitely in the accounts, so that they alone would determine the bulk of the rate adjustments with changing prices. Moreover, on the actual cost basis, improvements, additions and extensions would be installed as prices changed, so that at any time the total cost of the properties would represent a substantial adjustment to the changing prices. Consequently, the difference of rates charged systematically on the actual cost basis would not be great, compared with reproduction cost, and would not be sufficient to cause any material distortion of otherwise normal economic relationships.

But all this assumes prompt rate adjustments with varying prices, which actually would not take place. On the contrary, every attempted rate variation would serve to arouse a conflict of interest and the actual modification would be long delayed. This would be true during rising as well as falling prices; and on this point there has been plenty of experience. If, therefore, we take into account the inevitable delay in rate adjustments, economic distortions are produced and not prevented on the reproduction cost basis. During rising prices rates would not be increased as needed; consequently financial difficulties would follow, the service would deteriorate, and normal business developments would be retarded. While there might be a growing demand, actually poorer or inadequate service would be provided. This was amply illustrated by experience during and after the War.

The considerations just presented affect also the relative supply of new capital. If on the reproduction cost basis prompt rate adjustments were made, undoubtedly this would merely preserve the same relative demand and supply of new capital as if prices had not changed. There would be no greater relative burden upon consumers at higher rates and greater price level than if prices had not risen. The same charge relatively would be maintained and economic distortions prevented.

But, again, the return factor is so small in the total rate content and there is such a gradual adjustment of total capital cost to changing price level, that at most the distorting influence on the actual cost basis would be slight. If, however, we consider the inevitably delayed rate adjustments under the reproduction cost basis, we see that the distortion of capital supply will be stimulated and not prevented. During rising prices with undue delay in rate increases, the financial pressure upon the companies would keep back desirable capital developments, instead of stimulating undesirable construction as claimed in the argument. During falling prices the delayed adjustment would result in undue profits, which would tend to stimulate new investment, while the otherwise normal demand for service would be retarded because of the continuance of relatively high rates.

At best these economic arguments have little force because of the small return element in the total rates and the gradual adjustment of actual cost to changing prices. But the inherent difficulty of administering the reproduction cost basis induces and stimulates economic distortions. The real force of the argument, therefore, is turned against the reproduction cost basis.<sup>1</sup>



**Street Railways or Buses?**—A life struggle appears to be taking place between street railways and buses. This can be observed not only in every city, but wherever local transportation is an important economic and social factor. It even extends beyond street railways and takes in partly steam railroad transportation. It affects all comparatively short distance passenger traffic, with the buses struggling to replace existing modes of transportation.

The serious conflict, however, rages between street railways, including interurbans, and

<sup>1</sup>The arguments against reproduction cost, and for actual cost, will be outlined in the next number of the REVIEW.



buses. The financial difficulties of the former are due, of course, a great deal more to new inroads upon traffic by buses than to inadequate fares and inflexible requirements by the municipalities and commissions. If the companies had been free to raise fares without public hindrance, they might have been equipped considerably worse for the struggle. In many instances, if not usually, they have had their attention centered too much on higher fares than upon the requirements of service, and the opportunity of developing even greater volumes of traffic. Their financial management has contemplated too much the factor of gross revenues per passenger, instead of gross total from *all* possible traffic and net return above operating expenses and taxes. In other words, they have not weighed sufficiently the fact that transportation, probably above every other utility, operates under the principles of "diminishing costs" and "increasing returns"; that in the last analysis financial success and continued economic life depends upon large and growing traffic, whatever the rates of fare may be. This over-zeal for higher rates, has doubtless been one of the important factors which has handicapped street railways in the competition with buses.

#### COMPETITION OR CO-OPERATION ?

Like most wars, the present struggle came on quite unexpectedly, especially so far as the street railways are concerned. Indeed their extreme interest in higher fares during and immediately after the war made them neglectful of too much else,—improvements in facilities and service, and especially danger of competition with automobiles and buses. The latter became well entrenched for conflict, before the street railway managements ceased scoffing at the "hair brained" enthusiasts for buses. Their present handicaps are probably due largely to their contempt of the upstart rival. This is indeed common history of warfare.

But the conflict is on, and the question arises, What shall be done? Shall it go to the finish, or shall it be composed through an equitable settlement? Shall it be competition or attempted co-operation between the two modes of transportation?

Naturally, there are sharp differences of opinion as to the proper answer to this question,—honest and intelligent differences. We hardly believe that the time is ripe for co-operative

settlement. We feel that no one yet knows what is the proper economic place of street railways and buses. Possibly street railways are completely obsolete and the fight may give the buses full control of local transportation. But that is too big a conclusion to reach on the basis of present established facts.

We are rather of the opinion that competition for considerable time will be desirable. It may bring out street railway developments that were undreamed of when these industries were without challenge. Competition is a tremendous stimulator of activity, and it may be especially efficacious when a long honored industry is facing possible destruction.

We doubt the wisdom at this point of a general co-operative program, whatever may prove desirable in any particular situation. In the last analysis, of course, what should be done is a local question and must be determined according to the special circumstances. General factors, however, must also be given due weight. As to such general factors, we believe that too great eagerness for co-operation is likely to result in stifling improvements—both in street railways and buses. Moreover, there is particularly the financial danger of bringing the bus operation under the same financial structure with existing street railways. The probable evil of such comingling of finances, would be to burden the buses with any over-capitalization and excessive fixed charges resting upon present street railway properties. The buses, in any event, should not be strangled either through co-operative restriction upon further development or by imposing upon them financial burdens with which they have no economic connection.

Whatever our impressions may be, we frankly concede that they are only impressions and not scientifically established facts or principles. We do believe that intelligent discussion is desirable, and that every material and competent point of view should be considered, especially if it is plainly not prejudiced and seeks sincerely for the most desirable results.

With the above observations and questions before us, we are pleased to present the views expressed in the following article by Mr. Howard M. Wilson, Manager of the Civic Affairs Department of the Cincinnati Chamber of Commerce. Mr. Wilson raises interesting questions and makes very pertinent suggestions. But, there is room for doubt whether the time has come when the two modes of transportation can be economically

adjusted. Competition is wasteful, but through what other course can the proper economic place of each service be determined, without insupera-

ble conflict between excessive enthusiasm of the young and the deep bias of the old, and without putting a handicap upon further progress?

### RAILS vs. RUBBER

BY HOWARD M. WILSON

*Manager, Civic Affairs Department,  
Cincinnati Chamber of Commerce*

What is the future of the bus? What effect will it have on the street cars and the railroads? How does it affect traffic? These and hundreds of other questions are asked of any one who has interested himself in this fascinating industry. Who has the correct answer?

The history of transportation has been an interesting series of evolutions, from the primitive trail to the motor bus—and next the airplane. Each step brought its problems. Some were solved quicker than others. When will the present situation be cleared up? When the motor enthusiast is shown that a sanely planned system of coördination will save him from the mistake of trying to render a service for which he is not entirely equipped.

The bus is here to stay. I do not mean to contradict that: it has an important part to play in the expanding scheme of American transportation. Service will be the factor by which it will ultimately be decided as to which form of transportation is to predominate. I believe both will live, but I do not believe that the growing popularity of the motor bus justifies the prediction that it will displace the trolley.

No medium has yet been developed which alone can take the place of the electrical railway in moving large numbers of persons in the rush hours in cities. I might have to back up on this statement subsequently, but I cannot conceive of developments that will decrease the turning radii of buses now constructed by engineering genius.

Assuming that this is correct, I would then say that to permit competition between any form of public transportation is an economic waste. Investors should be safeguarded and the public given service. Electric and steam railway operators should grasp the opportunity to furnish a coördinated trolley, railroad and bus service, if they do not others will furnish the bus service. That is just where the folly has been. Government officials, from little villages to

federal, have not seen the possibilities of this "new infant" any more than the most of our public utilities. That is where I believe the greatest problem lies.

A solution, whereby justice will be administered to all—transportation should be sold by transportation men. A large percentage of the men or groups of men now engaged in the motor bus business, are of the very best type, but they do not know "transportation." So I say repeatedly the greatest problem is to get this business into the hands of transportation experts in a just and fair way or the bus men, themselves, should take every opportunity to "learn transportation."

Street railway companies should not carry out extensive programs of construction, but they should improve existing facilities and coördinate the operation of street cars and buses. The most important future development of transportation facilities lies in the coördinated operation of surface cars, taxi-cabs, buses and the rapid transit.

### MUST BE OPERATED BY SAME ORGANIZATION

I have given some conclusions before arguments and possibly have not answered clearly the questions heading this article. But what is the future of the bus? It is here to stay, but if it is to succeed in the present hands, it must be backed up by specialized organization, skilled in selling transportation. The bus has assumed the rôle of a public utility, and the future will see consolidation of the present lines of independent operators into larger units or gradual passing of the smaller independent operator, who will be absorbed by the present large electric and steam railroad companies.

The greatest benefit of the bus will unquestionably come when it is operated by the same organization as the railway, so that it can be made to extend and amplify the service of the rail lines without the competitive results, if

operated separately, which injures the prospects of both systems.

There is no question, in answer to the second question, that the bus is "cutting in" on the business of traction lines (urban and interurban) and the steam railroads, and I believe it will injure the steam and interurban lines to considerable extent, and while they will cut in on the urban lines and possibly make some routes unprofitable, it will not destroy (in their entirety) municipal systems of any size. At least it will not do so unless there is some unimagined development that will quite materially change its present characteristic.

As to traffic, one of the buses greatest assets, is its flexibility. It can move in and around traffic, it can change its route at will in case of fire or accident. However, in considering the flexibility of the bus, it must be remembered, that street cars in handling large masses of people in the congested areas of large cities, move in fixed, definite lines of travel and that the buses on the contrary move in irregular and more uncertain lines of travel. In the regulation of street traffic this apparent flexibility of the bus may become a disadvantage. In other words,

you know where the street car goes, but no one can tell where the bus may go.

Still, planning experts, traffic experts, and the like, are giving serious consideration to the possibilities of future bus development when presenting new plans. The city plan of Cincinnati, the first to be adopted by any large city, includes this consideration.

Let us call in the electric lines, the railroads, the motor bus operators, the road and traffic experts, the city planners, all sellers of transportation, and the public . . . let us meet together and decide upon a policy whereby duplication of service would be avoided and that service would be rendered where necessary.

This article is not to be construed as an attempt to give comfort to existing street railways. They must have the vision and the initiative to undertake this new mode of operation or they will lose business.

Better transportation will be had through unification. It is a common monopoly and should be with strict regulation. Better transportation means better cities, better villages, better communities.



# JUDICIAL DECISIONS

EDITED BY C. W. TOOKE

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**The Extension of Municipal Functions.**—The question of the power of cities to engage in activities not sanctioned by precedent involves not only an application of the principles underlying the delegation of authority to them, but often also the definition of that public purpose beyond which the governmental powers of the state may not go. It is elementary that all powers of municipalities are delegated and that the legislature cannot delegate any power it cannot itself exercise. But beyond these considerations, the courts are confronted with the further question whether under the grant of a general power to act the specific power is to be implied, and this turns usually upon the further consideration whether the purpose is primarily for the benefit, use or convenience of the inhabitants of the city as distinguished from the public at large. The courts in deciding cases involving the extent of municipal powers thus have frequently before them the difficult task of applying the fundamental principles of constitutional limitations and of statutory construction and of reconciling them to the ever changing social and economic demands of modern urban life. The complexity of the issues involved in adjudicating such cases may be illustrated by a brief review of two recent decisions handed down by the courts of Missouri and Arizona.

The extension of the sphere of municipal functions to include the furnishing of those necessities of life which are charged with a public interest was upheld by the supreme court of Arizona in the case of the *City of Tombstone v. Macie* (245 Pac. 677), decided April 24, 1926. The question involved was the power of the city to establish and operate a combined electric light, power and ice plant for the benefit of its inhabitants. An injunction was sought against the issuance of bonds to erect such a plant on the ground that the furnishing of ice was not a public purpose which would justify the exercise of the power of taxation.

In sustaining the power of the city to engage in the business of furnishing ice, the court holds that the state may delegate to municipalities such powers to the extent that it may exercise them

directly. It bases its finding of a public purpose upon the necessities created by the local climatic conditions, just as the supreme court of Maine found in the peculiar climatic conditions of that state a justification of the delegation of the power to establish public fuel yards to its municipalities.<sup>1</sup> While the power to establish municipal ice plants has been denied in Missouri and Louisiana<sup>2</sup> it has been upheld in Georgia,<sup>3</sup> and in fact no less than sixteen such municipally operated plants are listed in the *Municipal Index* of 1926.

The lack of a proper delegation of authority by the legislature was urged against the validity of the ordinance, but the court held that the limitations imposed by various statutes were nugatory in view of Chapter 31 of the state constitution, which provides that: "Every municipal corporation within the state shall have the right to engage in any industrial pursuit . . . and for any and all such purposes in order to carry out the same, such municipal corporation shall have power to issue and sell bonds."<sup>4</sup>

While the question of the delegation of power by the state is always present in cases of this kind, an express grant of authority is still subject to the limitation that taxation must be for a public purpose, under which rule the state is precluded from engaging in ordinary commercial enterprises. If the purpose of the governmental undertaking is simply to enable the citizens to be supplied with what is necessary to the enjoyment of health and life, which could otherwise be

<sup>1</sup> *Jones v. City of Portland*, 113 Me. 123; *Aff.* 245 U. S. 217; *Contra*, *Re Municipal Fuel Plants*, 155 Mass. 601.

<sup>2</sup> *State v. Orear*, 277 Mo. 303; *Union Ice Company v. Ruston*, 135 La. 898.

<sup>3</sup> *Holton v. City of Camilla*, 134 Ga. 560; *Saunders v. Town of Arlington*, 147 Ga. 581.

<sup>4</sup> It may be noted in passing that a similar question arose in relation to a municipal plant for the sale of gasoline and oil before the U. S. district court for Nebraska last year. In holding that the erection and operation of such a plant was for a public purpose, the federal court decided that the city of Lincoln under its home-rule charter had full power to determine the expediency of such an enterprise, without any express delegation of authority from the state legislature (*Mutual Oil Co. v. Zehrung*, 11 Fed. (2d) 887).

obtained either not at all or only with great difficulty, the express grant of the power to a municipal corporation is generally held to be a declaration by the state legislature that the enterprise is for a public purpose and conclusive upon the courts.<sup>5</sup> While the underlying conditions may vary greatly in different states, yet, even where the facts are quite similar, the courts sometimes differ widely in their application of this principle of our public law. Thus the Georgia courts have sustained the power of a municipality to engage in the ice business as implied from the general welfare clause of its charter, while the courts of Missouri have denied that it may be exercised even under an express legislative grant of authority on the ground that the enterprise is not charged with a public purpose.

A further illustration of the tendency of the courts of Missouri to limit the field of municipal functions is found in the case of *Kennedy v. City of Nevada*, recently decided by the Kansas City court of appeals (281 S. W. 56). In denying liability of the city for a nuisance caused by the discharge of sewerage upon the plaintiff's property from a tourist's camp established by the city, the court holds that the statutory authority of cities of the third class to acquire property is limited to municipal purposes, that the maintenance of a camp for the accommodation of tourists is not a municipal purpose, and consequently the purchase of the lands so used was ultra vires and void and the city not liable for the damages thus caused. This decision may be sustained if at all upon the ground that the purchase of land for this special purpose could not be implied from nor be incidental to the general power to "purchase, hold, lease, sell, or otherwise dispose of any property, real or personal," which the court correctly holds is limited by the constitutional provision that cities have power to levy and expend money raised by taxation for corporate or municipal purposes only. The city in this case, it may be observed, was not engaging in a commercial enterprise but was supplying a service to travelers on the highways, which upon slight reflection will be found to have a very direct bearing not only upon those to whom the immediate convenience is afforded, but also upon the health and safety of the community in which they spend the night. The court in thus limiting its definition of a municipal purpose does not deny that the legislature may invest a municipi-

ality with power to establish a tourist camp, the declaration of general policy thereby determining the purpose to be corporate and municipal in character.

No state has gone further than Missouri in holding municipalities to strict liability for damages caused by nuisances created by them,<sup>6</sup> but it is clear that no liability will attach where the act out of which the nuisance grows is admittedly beyond the corporate powers. If the city is to be held immune in the instant case it must be upon the ground adopted by the court that in the absence of express delegation of this especial authority, the establishment of a tourist camp cannot be regarded as coming within the domain of municipal purpose. But the function the city attempted to exercise in this case was so peculiarly of local interest that the court in its opinion felt constrained further to fortify its conclusion by taking the broader position that the purpose was not one for which the power of taxation could be exercised. The inconsistency of this position is manifest when we realize that the same constitutional restrictions which the court invokes would likewise be applicable to an enabling statute.

The question, therefore, turns back again to the definition of a municipal purpose. In recent years it has been held that a city may engage in many activities under a grant of power for general welfare which formerly could not have been justified as municipal in character. The maintenance of facilities for bathing, boating, playing golf, etc., are now generally regarded as municipal functions incidental to the establishment of public parks.<sup>7</sup> The erection of tourist camps by so many cities and villages throughout the country and the resulting protection and benefit to the residents of the locality might well have been judicially noticed by the court in determining the question at issue. The failure of the court to take into consideration the changes brought about by the general use of the automobile in transportation may be contrasted with the advance position taken by the New York court of appeals in the case of *Schiefflin v. Hylan*,<sup>8</sup> in which the court frankly recognizes the necessity of taking judicial notice of modern conditions in determining the public character of municipal activities.

<sup>5</sup> *Davoren v. Kansas City* (1925), 273 S. W. 401.

<sup>7</sup> *Booth v. Minneapolis* (1925), 203 N. W. 625.

<sup>8</sup> 238 N. Y. 254.

<sup>6</sup> *Jones v. City of Portland*, 245 U. S. 217.

## SHORT COMMENTS ON CURRENT CASES

**Special Assessments—Limited to Benefits.**—The supreme court of Illinois in *Village of Milan v. Looby*, decided April 23, 1926 (151 N. E. 501), reiterates the rule that the extent of special assessments for a public improvement must be limited to the benefits accruing therefrom to the property taxed. In this case the court on appeal reversed a confirmation of a special assessment upon the ground that it did not plainly appear that the lands taxed would be benefited to the full amount of the assessment. A similar question arose in *Engstrom v. Wichita*, decided May 8 by the supreme court of Kansas. In this case the court enjoined an assessment against the petitioners remaining property of the full value of a certain part of his lands taken for a street improvement, on the ground that it was *prima facie* confiscatory. While the facts in this latter case closely resemble those on *Norwood v. Baker* (172 U. S. 69), the decision falls within the principles of *French v. Barbee Asphalt Co.* (181 U. S. 324) and other later federal cases which modified the rule laid down on *Norwood v. Baker*. *Milan v. Looby*, however, would seem to follow *Norwood v. Baker* in holding that the question of benefits is a question of fact and always open to judicial review. It may be noted that the courts of Indiana also refuse to accept the legislative declaration of benefits as final and reject the present federal rule which would permit a judicial review of the relation of the tax to benefits only in case of apparent confiscation (*Harmon v. Bolley*, 187 Ind. 511; 120 U. S. 33).

✱

**Local Taxation of Federal Agencies.**—In *United States v. City of New Brunswick* (11 Fed. (2d) 477), the circuit court of appeals of the third circuit, set aside an assessment of taxes by the city upon certain property which the United States Housing Corporation had sold to private individuals upon a contract, whereby title was not to pass till the last of the deferred payments on the purchase price were made. The statute under which the sale was made expressly provided that the unpaid balance should constitute a first lien, which could not obtain if the locality might impose a valid tax. The decision is based upon the elementary principle of the immunity of federal property from state or local taxation, but illustrates the unfortunate situation that may arise, when the federal government delivers possession of property to individuals under long

time contracts, whereby the purchasers may enjoy all the benefits of local protection without being subject to taxation by the municipality.

✱

**Federal Taxation of Local Agencies.**—The United States court of claims the last of May handed down a decision in the case of *Wichita Falls (Tex.) v. The United States* (not yet reported) in which it was held that the city could not recover back from the federal government, the amount of transportation tax paid on sewer pipe purchased by it to be installed in its local system. Under the Revenue Act of 1918, three per cent of the total transportation charges from San Antonio to Wichita Falls, amounting to nearly \$1500, were exacted from the railroad company, which under its contract the builder in turn collected from the city. In denying the right of the city to relief, the court says: "The true distinction is between the attempted taxation of those operations of the state essential to the execution of its governmental functions and which the state can only do itself, and those activities which are of a private character. The former, the United States, may not interfere with by taxing the agencies of the state in carrying out its purposes; the latter, though regulated by the state and exercising delegated authority, such as the right of eminent domain, are not removed from the field of legitimate federal taxation: *Vilas v. City of Manila*, 220 U. S. 345; *Metcalf v. Mitchell*, 229 Fed. and 12."

✱

**Allocation of Assets and Liabilities upon Division or Annexation.**—The power of the legislature, except so far as limited by the state constitution, to allocate the funds and debts of municipal corporations upon their division or annexation is universally upheld, and this power may be exercised either at the time of the readjustment of boundaries or by the subsequent legislation. In *State, ex. rel. v. Board of Education of Sharples Village School District* (151 N. E. 669), the supreme court of Ohio upholds a provision of the General Code (sec. 4696) which confers upon the county board of education the duty of determining the equitable distribution of funds on hand and of debts outstanding in event of a readjustment of the boundaries of school districts. The county board having duly acted by resolution, the officers of the one district may be required by



mandamus to turn over the proportion of funds adjudged to belong equitably to the other.

✱

**Commission Form of Government: Power of Commissioners to Abolish Administrative Offices.**

—The court of errors and appeals of New Jersey in its decision on May 17, 1926, in the case of *Schmeidler v. Jersey City*, affirmed the power of the commissioners of Atlantic City under the Walsh Act and the amendments thereto not only to create subordinate boards and appoint officers thereto, but also to abolish such boards and any other administrative offices as may have been established prior to that act. This sweeping power the court implies from the provision of the Walsh Act which clothed the board of commissioners with all administrative, judicial and legislative powers and duties theretofore vested in the mayor, city council and other executive or legislative bodies, and with "complete control over the affairs of the city adopting the provisions of this Act." The office abolished by ordinance in the instant case was that of mercantile appraiser. Although such power seems essential to the carrying out of the provisions of the Walsh Act, Justices Parker and Katzenbach registered their dissent.

✱

**Classification: Attempt to Exempt a Single City from Public Service Commission's Control.**

—In *Littleton v. Hagerstown* (132 Atl. 773), the supreme court of Maryland reaffirms the force of that clause of its constitution that the "General Assembly shall pass no special law in any case, for which provision had been made by an existing general law." The public service commission having refused to grant a permit to extend its municipal lighting plant, the city obtained from the legislature an act to exclude it from the operation of the public service act and to authorize expressly the expenditure in question. The court held that there were no such peculiar conditions present as would justify the legislature in exempting the city of Hagerstown from the control of the public service commission, even by a statute general in form. The opinion contains a very thorough discussion of the bases of classification that will meet the requirements of this and similar constitutional restrictions upon special legislation.

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**Zoning—Recent Decisions in North Dakota and Georgia.**—Two states recently to pass upon the constitutionality of zoning are North Dakota

and Georgia, the former sustaining and the latter declaring invalid the statute and local ordinance involved. In city of *Bismarck v. Hughes* (20 and N. W. 711), the defendant, having been refused a permit to build a four-family house upon a vacant lot in a residence district where the ordinance required a set-back of 22 feet, side yards of 10 feet, and a limitation to two families, began the construction of the building, which did not conform to any of these regulations. In upholding an injunction issued upon the petition of the city, Justice Burke, after showing that the precise power in question has been generally sustained when expressly delegated to a city, calls attention to the fact that the ordinance was comprehensive in nature and was based on the Standard Enabling Act, drafted under the direction of the secretary of commerce and already adopted in some twenty states. The court grounds its decision in the last analysis upon "the health and general welfare of the city and its people."

It is to be noted that only limitations as to area, size and height were involved in the North Dakota case, while in *Smith v. Atlanta* (132 S. E. 66), the question of the constitutionality of the special statute amending the charter of the city to give it power to zone, and of the comprehensive ordinance passed pursuant thereto turned solely upon the right to restrict the use of lands and buildings in a given district to residence properties. No allegation was made by the defendant that the petitioner had not met or was not willing to meet all requirements as to size, height, or area, but that a permit had been refused solely because the building he desired to erect in a residence district was designed for the use of stores. While the Georgia supreme court in this case distinctly limits its finding that the statute and ordinance are invalid to their prohibition of stores in districts limited to residences, it refuses to be bound by the legislative declaration of the purposes of the act and lines itself squarely with the courts of Texas and New Jersey in its adherence to the traditional strict limitation of the police power to the control of those agencies which may cause a direct and material damage to persons or property. Carrying the argument of the court to its logical conclusion, it would hold invalid any zoning ordinance based solely upon the maintenance of general property values or upon the protection of the health and welfare of the citizens of the community at large.

Although these decisions may be reconciled upon their diverse facts, the opinions show a wide difference in the definition the respective courts place upon the police power. We shall have to await a further elucidation of the extent of the police power of the states from the supreme

court of the United States. The opinion of that court in *Ambler Realty Co. v. Euclid*, to be reargued in October, should give us a comprehensive exposition of the application of the police power to the changing conditions of our civic life.

# GOVERNMENTAL RESEARCH CONFERENCE NOTES

EDITED BY ARCH MANDEL

**Minneapolis Bureau of Municipal Research.**—The Bureau has completed its additional work on a survey of the water department budget and submitted its findings to the city council. Briefly, the work done was to re-state the expenditures of the water department in terms of the budget classifications used by the other departments. Under a ruling of the city attorney, this department has never had to submit a budget. The change in the complexion of the council a year ago led to the agreement that it would submit a budget. It is hoped that this custom will last.

At the last meeting of the League of Minnesota Municipalities held on June 22-24, a committee of the League, on which the Bureau was represented, presented a program of financial legislation for municipalities. A bill revising the laws relating to bonded indebtedness was discussed by that committee and the convention. The Bureau presented as its part a proposal relating to budget making for cities and villages. The League adopted the committee's report and the matter will be before the legislative committee of that organization for further discussion before the legislature meets this coming winter. The general principles laid down by New Jersey were followed in so far as it seemed possible to do so in Minnesota at the present time.

An investigation of the cost accounting of the board of education is now under way. This matter arose from a complaint by plumbing contractors that the school board's shop was underbidding the normal cost of doing a particular piece of work. The bureau's accountant will follow the bid through from the estimate to the completion of the work. As often as necessary, he will keep the accounts for this particular piece of work at the school board offices. In this way, it should be possible to know exactly the facts in the case without having to determine it from a historical record after the job has been completed. The full cooperation of the school board offices is given.

The council-manager charter with proportional representation as a method of election was

defeated by a vote of 56,681 to 27,341 on June 21, 1926. Various reasons are assigned for the defeat, largely according to the viewpoint of the individual. Some or all of the following factors were involved:

1. The time of the campaign was entirely too short to carry the force of the argument in favor of it into every part of the city. This was evidenced by the fact that even in friendly territory the charter received less than the required vote of four-sevenths of those voting on the question.
2. With a few exceptions, the friends of the charter were not enthusiastic. Most of the work was done by a group of women. Business men helped to finance the cost of the campaign, but did little in the way of active speaking and campaigning.
3. A campaign of misrepresentation about city manager government elsewhere helped. This is particularly true of an alleged investigation conducted in Cleveland by a labor representative who spent two or three days interviewing a half dozen people. Even in these cases the argument might have been made about as strong for the charter as against it, based upon what the persons stated to the interviewer.
4. The charter commission was almost equally divided for and against the proposed charter. Three of the members in particular worked against it.
5. Proportional representation, usually accepted by the liberals and labor, was particularly criticised by that group, at least by its leaders. There were not enough workers to combat that part of the anti-campaign.
6. The city hall crowd was so strongly entrenched as to be able to carry its campaign quietly through its day labor group that reaches into each ward and precinct.
7. The group who believe that redistricting of the wards is equivalent to all the change in government that is needed helped to reduce the number who voted for the charter. There were more than 10,000 who voted for state or county officers but who failed to vote on the charter, indicating a lack of education and indifference.

There is already some undercurrent of talk that the official Charter Commission will propose two



amendments at the November election. The two are,—the redistricting of the wards, cutting down the representation in council to one from each of twelve and probably thirteen wards; and, second, the consolidation of the street maintenance organization under the city engineer. It now consists of thirteen individual ward organizations, each having a separate tax levy with separate tool houses and separate sets of equipment. Its strength lies in the fact that this is the last resort and stronghold of political patronage. If these amendments are put up at the November election, it will require 60 per cent of all the votes cast at the election to adopt it.

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**The Ohio Institute.**—The Ohio Institute has just issued a short pamphlet entitled "Supervision of Mentally Deficient Children of Compulsory School Age." This is the third of a series relating to special educational provision for mentally deficient children.

The Joint Legislative Committee on Prisons and Reformatories in Ohio has in press a report presenting a number of constructive recommendations. Copies may be obtained from the Joint Legislative Committee on Prisons, in care of J. E. Cross, Clerk of the Ohio Senate, Columbus, Ohio.

Raymond C. Atkinson, of the Department of Government at Columbia University, joined the staff of the Ohio Institute in July.

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**New York National Institute of Public Administration.**—At the request of Governor Byrd, the Institute has undertaken a survey of state and county government in Virginia. All of the Institute staff will be engaged in this study, which will require several months.

William Watson is making an administrative survey of the accounting system of Upper Darby Township, Pennsylvania.

The Handbook of Public Finance by members of the Institute staff is now in the hands of the printer.

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**Rochester Bureau of Municipal Research.**—Harry H. Freeman, former city manager of Kalamazoo, Michigan, and long connected with bureau work, is now a member of the staff of the Rochester Bureau of Municipal Research. Mr. Freeman joined the staff of the Rochester Bureau on June 1.

W. Earl Weller has left his position as chief engineer with the Rochester Bureau to engage in

private civil engineering and consulting work, as a member of the firm of Hevenor and Weller. All indications point to great success for this new venture.

The Rochester Bureau will spend a great part of its time for the next year and a half in preparing a municipal code for adoption by the city after the city manager charter becomes effective on January 1, 1928.

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**Toronto Bureau of Municipal Research.**—The Bureau published an "Imaginary Letter from a Hypothetical Correspondent Representing a Real Viewpoint and Illustrated by Some Official Figures." This repeated, to a large extent, the stand of the Bureau in 1924, when it suggested that an investigation be made of the affairs of the Toronto Harbor Commission. A Royal Commission to inquire into harbor matters has now been requested by the city council.

The Bureau has made its annual analysis of the Toronto city budget and has published the summary in bulletin form. This shows amount spent on community services such as education, protection of persons and property, etc., and also amount spent on salaries, wages, etc. A comparison is also given with the previous year. This enables the citizens to see at a glance just how money is being spent.

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**Citizens' Research Institute of Canada.**—The fourth of the annual series, "Cost of Government in Canada, 'Summary' Combined Per Capita Costs of National, Provincial and Municipal Governments for 17 Canadian Cities," has been issued.

For the information of the delegates to the Interprovincial Conference held at Ottawa on June 7 and 8, the Institute issued a report giving a résumé of the recommendations of the Tax Conventions of the Institute, dealing with such subjects as:

Coördination of Effort  
Standardization of Method  
Succession Duties

Delimitation of the Field of Taxation

The Institute published a report dealing with the work of the Dominion of Canada Civil Service Commission, "Is there any Connection Between the Problems of Taxation and Those of Civil Service Control?"

The Institute is preparing for the Fourth Annual Convention of its Tax Conference, which is this year being held in Winnipeg on September

28 and 29. Papers are being prepared by men well versed in their subjects, on such topics as "Tax Free Bonds," "Immigration," "Rural Credits," "Taxation of Publicly Owned Public Utilities," "Can Governmental Expenditures be Reduced?" and other subjects, all of vital interest to the taxpayers of the Dominion.

The first installment of "Red Book," giving financial statistics of Canadian municipalities, population over 10,000, has been compiled and will be issued the latter part of June.



**St. Louis Bureau of Municipal Research.**—The present city administration assumed office in April, 1925, with the stated intention of practising economy and adopting more economical and efficient methods of conducting city operations. The Bureau immediately offered its coöperation, and upon its acceptance by the mayor, announced that it would suspend publication of reports on departmental operations until the administration should have had sufficient opportunity to adopt desirable changes. Studies were continued, some new ones were begun, and a number of suggestions were submitted to the heads of departments.

Early in 1926 some of the department heads refused to permit the Bureau to have access to their operating records. At a meeting of the governing committee, following those refusals, the mayor stated that he desired to coöperate in the Bureau's suggestions and that he would give orders to permit the Bureau full and free access to all city records. A number of the problems confronting the administration were outlined by the mayor, with the request that the Bureau undertake studies of as many of the suggested problems as practicable. In accordance with the original policy of co-operation with city officials, the Governing Committee assured the mayor that when the reports now being prepared are completed, they will be submitted to the administration and that the public officials will be given opportunity to change conditions, if that be found desirable, before any public statements are made about the departments. Several of the suggested studies are now under way and some of the reports will soon be ready for submission.

The city has levied last year and this year, for municipal purposes, the maximum tax rate permissible under the state constitution. As is true of most cities, there is an almost constant demand upon the city government for more municipal service. The improvements being provided from the funds of the large bond issue are also requiring additional funds from general revenues for their operation and maintenance. Although the present administration reduced its inherited deficit from \$528,217 to \$24,719, during the past year, it faces the possibility of an annual increase in the deficit unless it can carry out a program of strict economy.



**Des Moines Bureau of Municipal Research.**—The Des Moines Bureau of Municipal Research recently has been assigned by its directors the work of preparing a schedule of possible economies for the Des Moines city government, to be completed prior to the levying of the 1927 tax rate.



**Civic Department, Kansas City Chamber of Commerce.**—Kansas City, Missouri, is falling in line with those other municipalities that have adopted permanent registration of voters. Ray Wilson of the civic department of the Chamber of Commerce and the Public Service Institute have joined in the study, and to procure full and complete facts before any action is taken, Dr. Joseph P. Harris, assistant professor of political science at the University of Wisconsin, was employed to make a study of and report on the subject.



**New Bedford, Massachusetts, Taxpayers' Association.**—The New Bedford Taxpayers' Association, Hart Cummin, director, has issued its first bulletin, which is devoted to a summary of the city budget.



**Dayton Research Association.**—Arch Mandel resigned as director of the Dayton Research Association to assume the direction of the Dayton Community Chest. The change in positions was made August 1.

# MUNICIPAL ACTIVITIES ABROAD

EDITED BY W. E. MOSHER

**Local Government Yearbook.**—The *Deutscher Kommunal Kalender* for 1926 follows in the main the lines already adopted in former issues of this important year-book. It offers a list of the Leagues of Municipalities, giving in each case the names of the officials in charge as well as necessary addresses. In the same division is a list of the various organizations of public officials including technical groups. These are classified under twenty-two headings such as: Engineering, Police, Statistics and the like.

A third division of the work consists of a series of special articles on all of the various branches of local government, including special groups of articles on problems of current interest. The articles are prepared by men who write with authority and who are, for the most part, in positions of command. About 210 pages of a total of 447 are assigned to these reports and treatises.

After several articles of a more general character on such subjects as local finance, debt retirement, welfare and city planning, about 100 pages are devoted to each of the main topics: (1) technical and economic tasks of publicly owned industries and (2) local governmental conditions at the present time.

Under the former is found a series of contributions emphasizing the more technical aspects of the following public enterprises: housing and city planning, construction and maintenance of streets, power, light and heating plants, traffic (subways, street-cars, buses, air service, and a heterogeneous series that have not the remotest relation to traffic). For instance, one writer considers the obligation of the city to provide moisture, in generous quantities and by automatic means, for its own gardens and green spaces but also at reasonable rates for privately owned gardens; another, the desirability of utilizing human excrements for fertilizing purposes; another reports on an experiment in insect extermination by the use of aeroplanes; and finally, a fourth discusses the most effective methods of sending out fire-alarms, both for volunteer and paid fire companies.

The second main series, which is entitled

"Communal Chronicle," is divided into a number of sections among which the more significant are the following: Administration, finance, public industries and traffic, buildings, and housing, welfare and culture, employment, including placement, vocational advice, unemployment insurance and support, education and police.

The *German Kommunal-Kalender* for 1926 marks an improvement upon its predecessors. It is comprehensive, it is timely and it is authoritative. For those who wish to keep in touch with the changes that have taken place in the whole area of German local government and whose time does not make it possible to read the periodical literature, this annual work will form a treasure-trove.

A limited number of topics discussed in this years volume are here digested for American readers.

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## *Government of Municipalities and Communes.*

—One of the best articles in the Year Book has to do with the local government in operation in the important countries of Germany, emphasizing particularly what may be called predominant tendencies. In more places than one such a review results in the conclusion that there should be a common law applicable to the different communities throughout the empire, but at the same time one that would give the fullest possible amount of home rule to the local units. The writer expresses himself very vigorously on this subject as is brought out in the following sentence: "At no time has there been more talk about home rule and at no time has there been less of it practiced; at no time has the commune been more vigorously 'pummelled' than at present."

A further general observation is as to the amount of distrust shown toward the cities. In the different parliaments the impression seems to have become fixed that the desire of cities for the freest possible use of local power with reference to local affairs runs counter to the authority of parliament. The author considers this to be a kind of children's disease that he hopes will pass when parliamentary government has reached the age of maturity.



In view of the variety of usages in the various countries of the empire, a movement was launched in 1921 that aims at a common communal law applicable to all cities of the empire. This was prepared under the auspices of the German League of Municipalities. After a long period of study and discussion it has finally been presented to the proper authorities in Berlin. The bill restricts itself to cities and includes provisions along the following lines: (1) that the cities be responsible for all local administration in the absence of restrictive special laws. This extends to the moral, physical, economic and intellectual interests of the people in so far as they are subject to public agencies; (2) the establishment of a single municipal chamber; (3) insistence upon a budget with the requirement that loans shall be made exclusively for productive enterprises; (4) municipal industries to be carried on according to approved commercial standards; (5) the central government to exercise control over the cities only through the provincial organs, that is, not through imperial organs. In this it is proposed that the central authority shall restrict itself to the examination of new legislation to see that it does not run counter to general law and to a supervision of the cities to assure that they are fulfilling their obligations as determined by law. Confirmation of appointive or elective officials shall no longer be necessary; (6) annexations to take place, (a) on the expressed wish of the parties concerned, (b) through a compulsory legislative act of the central government.

*Administrative Reform.*—In spite of a considerable number of efforts made to bring about reforms in administration, little progress has been made. The author of the article on this subject takes the position that a science of administration is looked upon too much as a task for jurists, whereas he urges that there is such a thing as general technique and principles of administration which, taken all together, may very well be looked upon as an art. It seems to him noteworthy that during the recent period comparatively little systematic attention has been devoted by competent writers to this art. Among the few books mentioned, one entitled "Taylorism in Administration," meets with the approval of the author, who is of the opinion that the widespread discussion that followed at the time of publication seems well merited.

Considerable attention has been devoted, however, to the reform of the *bureau* as a unit of administration. The question is raised as to the proper methods of instituting improvements in bureau organization and control. The desirability of educating officials so that changes may be brought about with the full co-operation of the officials concerned is pointed out.

*Centralized Purchasing.*—This article deals with the type of centralized purchasing that is unheard of in the United States, namely, a central purchasing bureau maintained by, and in the interest of, a number of communities. Even before the war such centralization had taken place with regard to the purchasing of writing materials, clothing for officials and coal. Since the war there has been a considerable amount of progress along this line. Almost all of the large cities and many of those with less than 100,000 inhabitants are considering this step.

It is reported that for fifteen years most of the public utilities maintained by the cities have had such centralized purchasing organizations. The advantages are obvious and have often been recited. One, however, which is uncommon, is that by the purchasing of staple commodities in large quantities and well in advance of the time of actual use it is possible to regularize the market, thus reducing the cost to the consumers. The purchase of paving stones is a case in point.

The author concludes by recommending to those smaller communities whose requirements are so insignificant that it would hardly pay them to organize an independent central purchasing department to become incorporated with similar communities for the purpose of gaining the advantages that come with centralized purchasing.

*Taxation.*—The section devoted to the discussion of taxation aims to give a bird's-eye view of the different types of taxes and the distribution of the proceeds between the central government and the local communities.

The taxes are discussed under four headings: property, industrial, luxury, flexible (miscellaneous consumption taxes). Under the heading of property are included the customary taxes upon land and buildings as well as the tax on the transfer of real property, inventory, increments and rent. Industrial taxes cover business and partnership taxes, as well as those

on concessions for hotels and inns and upon peddlers, hucksters, etc. Flexible ("bewegliche") taxes refer to those imposed upon the sale of certain commodities or services. Here are introduced the following: amusements, taxi's, lodging houses and beverages. Finally, under luxury taxes are to be found those on the number of servants, hunting privileges, motor boats, horses, dogs, musical instruments, automobiles, "luxury dwellings," advertising, and even a tax upon cats which was imposed for a time in certain communities.

It should be noticed that the amount of money raised under the last two categories has been constantly decreasing and in certain communities many of these sources of taxation have been entirely eliminated.

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*Rights of Officials.*—The main topics of the article on the rights of officials are salaries, tenure and training.

In the discussion of salaries decided exception is taken to what is known as the Limitation Law, which was passed by the central government and has been extended to April 1, 1926. The inadequacy of the rates as well as the uncertainty concerning the future seem to the author to be demoralizing, particularly in view of the fact that officials are granted no power of appeal whatsoever.

The question of tenure is criticized in somewhat the same spirit. A general tenure law is proposed that will give those in practically permanent positions such recognized rights as are enjoyed by a comparatively limited number of the upper ranks of officials. The fact that about half of those engaged in the city's service, apart from the laborers, are, at the present time, subject to discharge after due notice seems particularly disastrous.

A final paragraph deals with the limping way in which the training of officials has been moving along. The recent action of the German League of Municipalities is looked upon with much favor. This action is based upon a program for systematic training. The fact that there

are at the present time some forty institutions in Prussia which offer preliminary training while in other parts of the empire similar institutions have been established for this purpose is an encouraging sign. The springing up of correspondence courses is also commented upon with interest.

*School Reform.*—An edict calling for a reorganization of the public school system and setting up new goals both as to content and methods was issued in 1924. It went into effect in 1925-26. The purpose was to bring the German school system into harmony with modern pedagogy. The new program emphasizes the following goals: (1) the development of a cultural unity with a distinctly German imprint, (2) the breaking down of barriers between the individual fields of knowledge, (3) the emphasis upon the development of the individual scholar rather than the learning of content.

The last goal is worthy of some detailed treatment. It is evident that it runs counter to what has previously been accepted as characteristic of German school methods. It is considered that the program of the class should be a working together of all the scholars in a free give-and-take under the direction of the teacher rather than the old style recitation. This is called, instruction by work (*Arbeitsunterricht*). The author of the article, a city school councillor in Hanover, expresses regret that this reform plan was not discussed with the representatives of the municipalites of Prussia before it went into effect. In his opinion there is an over-emphasis upon the method and a consequent under-emphasis upon matter. Further, he believes that the adoption of this pedagogical principle will require a reduction of the work of teachers and in the number of scholars assigned to individual classes. Finally, he approves most cordially the underlying purpose of the new program, namely, the development of the character and personality of the individual scholar.

Evidently the first year's experience, under the new scheme of things, has uncovered a series of problems many of which are far from solution.



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